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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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Presidential Documents

Title 3—

The President

Proclamation 8393 of June 18, 2009

Father's Day, 2009

By the President of the United States of America

A Proclamation

The journey of fatherhood provides unique and lasting joys. Cradling a baby in his arms, a father experiences the miracle of life and an unbreakable bond. Fathers imagine a world of possibilities awaiting their children and contemplate the privilege of helping them reach that expanse of opportunity. As kids grow and mature, they look to their dad for a special kind of love and support. Providing these necessities can bring great happiness.

Fatherhood also brings great responsibilities. Fathers have an obligation to help rear the children they bring into the world. Children deserve this care, and families need each father's active participation.

Fathers must help teach right from wrong and instill in their kids the values that sustain them for a lifetime. As they encounter new and challenging experiences, children need guidance and counsel. Fathers need to talk with their kids to help them through difficult times. Parents must also help their children make the right choices by serving as strong role models. Honest and hard-working fathers are an irreplaceable influence upon their children.

Communities must do more to counsel fathers. Family and friends, and faith-based and community organizations, can speak directly with men about the sacrifices and rewards of having a child. These groups can support men as they take on the great challenges of child-rearing. Through honest and open dialogue, more men can choose to become model parents and know the wonders of fatherhood.

On Father's Day, we pay tribute to the loving and caring fathers who are strengthening their families and country. We also honor those surrogate fathers who raise, mentor, or care for someone else's child. Thousands of young children benefit from the influence of great men, and we salute their willingness to give and continue giving. We also express special gratitude to fathers who serve in the United States Armed Forces for the sacrifices they and their families make every day. All of these individuals are making great contributions, and children across the country are better off for their care.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972, as amended (36 U.S.C. 109), do hereby proclaim June 21, 2009, as Father's Day. I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on this day. I urge all Americans to express their love, respect, and admiration to their fathers, and I call upon all citizens to observe this day with appropriate programs, ceremonies, and activities.

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

[FR Doc. E9–14963
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Rules and Regulations

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

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AD64

Exception to the Maturity Limit on Second Mortgages

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: NCUA is amending its lending rules to create a limited exception to the 20-year maturity limit on second mortgage loans. The amendment will permit federal credit unions participating in the Department of the Treasury's Making Home Affordable Program to modify a second mortgage loan, beyond 20 years, to match the term of a modified first mortgage loan.

DATES: This rule is effective June 24, 2009. Written comments must be received on or before August 24, 2009.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Exception to the Maturity Limit on Second Mortgages'' in the e-mail subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for e-mail.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Pamela Yu, Staff Attorney, at the above address, or telephone: (703) 518–6593.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Financial Stability Plan

The Emergency Economic Stabilization Act of 2008 (EESA) granted the Secretary of the Treasury emergency authorities and facilities to help restore liquidity and stability to the U.S. financial system. To address the ongoing financial crisis, the Department of the Treasury (Treasury) established the Financial Stability Plan, a comprehensive plan designed to address the credit crisis on multiple fronts. As part of this plan, Treasury has launched a series of initiatives toward financial recovery, including the Making Home Affordable (MHA) Program.

B. Making Home Affordable Program

In February 2009, Treasury introduced the MHA Program to stabilize the American housing market and help struggling homeowners reduce their monthly mortgage payments to more affordable levels. The MHA Program aims to help millions of homeowners by providing new access to low-cost refinancing and by creating an affordable loan modification program to help families stay in their homes.

Treasury estimates up to 50 percent of at-risk mortgages currently have second liens. In these cases, even if the first lien is modified to improve affordability, a second lien can put a homeowner at risk of foreclosure. To address this problem, Treasury recently launched a Second Lien Program in an effort to reach more troubled homeowners, and to maximize the effectiveness of the first lien modification program. The MHA Second Lien Program coordinates with the first lien program to help create a sustainable mortgage payment for those homeowners whoqualify for a first mortgage modification, yet are still faced with the difficulty of affording their housing payments due to a second lien.

Highlights of the MHA Second Lien Program:

- In general, MHA will share the cost with lenders of reducing payments for homeowners on second mortgages by:
  - Reducing the interest rate;
  - Extending the term of the modified second mortgage to match the term of the modified first mortgage;
  - Forbearing principal in the same proportion as any principal forbearance on the first lien, with the option of extinguishing principal under a set extinguishment schedule;
  - After five years, the interest rate on the second lien will step up to the then current interest rate on the modified first mortgage, subject to certain conditions; and
  - Investors will receive an incentive payment from Treasury.

The MHA Second Lien Program includes pay-for-success incentives and guidelines for servicers modifying amortizing and interest-only second liens. Full details about the MHA Second Lien Program are available online at *http://makinghomeaffordable.gov* and *http://www.financialstability.gov/docs/042809SecondLienFactSheet.pdf.*

C. Loans to Members

Absent this rulemaking, federal credit union participation in the MHA Second Lien Program would be limited because NCUA's lending rules impose a 20-year maturity limit on second mortgage loans that are secured by the member-borrower's primary residence. 12 CFR 701.21(f)(1)(ii). First mortgages, however, may be made with maturities of up to 40 years, or longer if permitted by the NCUA Board. 12 CFR 701.21(g).

The MHA Secondary Lien Program guidelines require that, for amortizing loans, mortgage servicers ''[e]xtend the term of the modified second mortgage to match the term of the modified first mortgage, by amortizing the unpaid principal balance of the second lien over a term that matches the term of the

modified first mortgage.'' For interest-only loans, ''[t]he second lien will amortize over the longer of the remaining term of the modified first lien or the originally scheduled amortization term, with amortization to begin at the time specified in the original contract.'' Without an amendment to § 701.21(f), federal credit unions cannot participate in the MHA Second Lien Program if the first mortgage is for a term longer than 20 years.

This interim final rule creates a limited exception to the 20-year maturity limit on second mortgage loans. The new provision, § 701.21(f)(3), will permit federal credit unions participating in Treasury's MHA Program to modify a second mortgage to match the term of a modified first mortgage, beyond 20 years. Credit unions that are not participating in the MHA Second Lien Program will still be subject to the current 20-year maturity limitation on second liens.

II. Interim Rule and Immediate Effective Date

NCUA is issuing this rulemaking as an interim final rule, effective upon publication. The Administrative Procedure Act (APA), 5 U.S.C. 553, requires that, before a rulemaking can be finalized, it must first be published as a notice of proposed rulemaking with the opportunity for public comment, unless the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. Additionally, the APA requires that, once finalized, a rulemaking must have a delayed effective date of 30 days from the date of publication, except for good cause.

In this regard, NCUA invokes the good cause exception to the requirements of the APA. NCUA believes good cause exists for issuing these amendments as an interim rule effective immediately. Due to the deep contraction in the American economy and, in particular, the housing market, millions of homeowners are struggling with unaffordable housing payments and are at risk of foreclosure. The interim rule provides credit unions with the ability to participate in the MHA Second Lien Program and, thus, to better assist struggling homeowners unable to afford their housing payments. The interim rule is limited in scope and does not impose any regulatory burden; rather, the rule provides greater flexibility for credit unions to assist their members in these turbulent economic times.

For these reasons, NCUA has determined that the public notice and participation that the APA ordinarily requires before a regulation may take effect would, in this case, be contrary to the public interest and, further, that good cause exists for waiving the customary 30-day delayed effective date. Nevertheless, NCUA would like the benefit of public comment before adopting a permanent final rule and, thus, invites interested parties to submit comments during a 60-day comment period. In adopting the final regulation, NCUA will revise the interim rule in light of the comments received on the interim rule, if appropriate.

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This interim final rule does not impose any regulatory burden but provides flexibility to all federal credit unions to allow for participation in the MHA Second Lien Program. Accordingly, it will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

NCUA has determined that this rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. 5 U.S.C. 551. NCUA does not believe this interim final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Mortgages.

By the National Credit Union Administration Board, this 18th day of June 2009.

Mary F. Rupp,

Secretary of the Board.

■ For the reasons discussed above, NCUA amends 12 CFR Part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789.

Section 701.6 is also authorized by 15 U.S.C. 3717.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610.

Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Section 701.21 is amended by adding new paragraph (f)(3) to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(f) * * *

(3) Notwithstanding the general 20-year maturity limit on second mortgage loans, a federal credit union participating in the Department of the Treasury's Making Home Affordable Program may extend the term of a modified second mortgage to match the term of a modified first mortgage, in accordance with applicable program guidelines.

* * * * *

[FR Doc. E9–14759 Filed 6–23–09; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AD60

Operating Fees

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its rule on the assessment of the Federal credit union (FCU) operating fee by permitting FCUs to subtract investments made under the Credit Union System Investment Program (CU SIP) and the

Credit Union Homeowners Affordability Relief Program (CU HARP) from their total assets; total assets is the basis on which the operating fee is currently calculated. The Board believes this amendment will remove a disincentive for some FCUs from participating in the CU SIP or the CU HARP.

DATES: This rule is effective January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Justin M. Anderson, Staff Attorney, Office of General Counsel, at (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In February 2009, the NCUA Board issued a proposed rule to amend § 701.6 of NCUA's regulations. 74 FR 9573 (Mar. 5, 2009). The proposed rule recommended allowing FCUs to deduct investments under the CU SIP and CU HARP from the calculation of total assets for purposes of assessing the operating fee.

Currently, § 701.6 sets out the basis on which NCUA assesses the operating fee. Briefly summarized, this section provides that FCUs must pay NCUA an annual operating fee based on the credit union's total assets. 12 CFR 701.6(a). NCUA calculates an FCU's operating fee by multiplying the dollar amount of the total assets by a percentage set by the Board after considering the expenses of NCUA and the ability of FCUs to pay the fee. The term ''total assets'' generally includes all assets created on an FCU's books related to investments made by an FCU that are currently outstanding as of the close of the previous fiscal year. Based on this calculation, an increase in the dollar amount of investments will increase total assets and, thereby, may increase an FCU's operating fee.

The Board recognized an increase in an FCUs operating fee might be a disincentive for FCUs to participate in the CU SIP and CU HARP. The Board, therefore, issued a proposed rule permitting FCUs to calculate their total assets less any asset created by an investment in the CU SIP or CU HARP. Because the operating fee is based on an FCU's total assets as of the close of the previous fiscal year and funding for the CU SIP and CU HARP took place after January 1, 2009, the proposed amendments would not affect the computation of the operating fee until 2010.

B. Discussion

The NCUA Board received seven comment letters regarding the proposal: two from credit union trade associations; two from State credit union leagues; and three from FCUs. All of the comment letters generally supported the amendment in the proposed rule and six of the commenters offered no additional comments or suggestions. One commenter suggested NCUA also amend the definition of total assets for purposes of prompt corrective action, 12 CFR Part 702, to exclude guaranteed or no/low risk assets from net worth ratio calculations. This comment is outside the scope of this rulemaking; NCUA may consider this suggestion when it reviews the prompt corrective action rule as part of its rolling regulation review under Interpretive Ruling and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations.

In the final rule, the Board is adopting a recommendation from agency staff to revise the regulatory language to describe the calculation more clearly. The proposed rule stated the term ''total assets'' does not include investments made under the CU SIP and CU HARP. The final rule has been revised to state the operating fee is determined based on total assets less the assets created on the books of a natural person FCU by investments under CU SIP and CU HARP. This revision does not change the substance of the proposed amendment or its intended effect, which is to ensure that FCUs will not pay an increased operating fee because of their participation in the CU SIP or CU HARP.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under $10 million in assets). This final rule revises the calculation of total assets for purposes of the assessment of the FCU operating fee and permits FCUs to subtract investments made under the CU SIP and the CU HARP from the calculation. The operating fee is calculated as a percentage of total assets and, as such, the calculation already is geared to impose a smaller fee on smaller credit unions. In addition, the operating fee schedule has historically imposed no operating fee on FCUs with assets up to $500,000 and a flat fee of $100 for FCUs of up to $750,000 in assets. The benefit of the amendment would apply equally to small credit unions, to the extent they participate in the CU SIP or the CU HARP, and would not have a significant effect on their operating fees. The final rule, therefore, will not have a significant economic impact on a substantial number of small credit unions and a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the amendment will not increase paperwork requirements and a paperwork reduction analysis is not required.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on State and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule does not have substantial direct effects on the States, on the connection between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 701

Credit unions, Operating fee.

By the National Credit Union Administration Board on June 18, 2009.

Mary Rupp,

Secretary of the Board.

■ For the reasons stated in the preamble, the National Credit Union

Administration is amending 12 CFR part 701 as set forth below:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. In § 701.6, add a new sentence to the end of paragraph (a) to read as follows:

§ 701.6 Fees paid by Federal credit unions.

(a) * * * The operating fee is determined based on total assets less the assets created on the books of a natural person Federal credit union by investments made in a corporate credit union under the Credit Union System Investment Program or the Credit Union Homeowners Affordability Relief Program.

* * * * *

[FR Doc. E9–14756 Filed 6–23–09; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0570; Directorate Identifier 2009–CE–033–AD; Amendment 39–15949; AD 2009–13–10]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Model HP.137 Jetstream Mk.1, Jetstream Series 200 and 3101, and Jetstream Model 3201 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

BAE systems have been notified by the MLG radius rod manufacturer, APPH Ltd, that a batch of incorrectly manufactured Buffer Springs (part number 184818) had been supplied to their parts distributor and MRO facilities in North America.

There is a risk that any radius rod fitted with one of these incorrectly manufactured Buffer Springs could jam in an unlocked position.

This condition, if not corrected, could result in MLG collapse.

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

DATES: This AD becomes effective June 26, 2009.

On June 26, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by July 24, 2009.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency AD No. 2009–0121–E, dated June 9, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

BAE systems have been notified by the MLG radius rod manufacturer, APPH Ltd, that a batch of incorrectly manufactured Buffer Springs (part number 184818) had been supplied to their parts distributor and MRO facilities in North America.

There is a risk that any radius rod fitted with one of these incorrectly manufactured Buffer Springs could jam in an unlocked position.

This condition, if not corrected, could result in MLG collapse.

For the reasons described above, this Emergency AD requires the replacement of each affected radius rod with a serviceable unit and allows the installation of the affected radius rods only after the accomplishment of APPH Service Bulletins 1847–32–14 and 1862–32–14.

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

Relevant Service Information

British Aerospace Regional Aircraft has issued British Aerospace Jetstream Series 3100 and 3200 Alert Service Bulletin 32–A–JA090640, dated June 2009 (includes an attached Accomplishment Report), and APPH BBA Aviation has issued APPH Ltd. Service Bulletins 1847–32–14 and 1862–32–14, both dated June 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

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

Differences Between This AD and the MCAI or Service Information

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

provided in the MCAI and related service information.

We might have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a batch of incorrectly manufactured main landing gear (MLG) buffer springs has been supplied to a U.S. distributor. There is a risk that any radius rod fitted with one of these incorrectly manufactured buffer springs could jam in an unlocked position and result in MLG collapse. EASA issued an Emergency AD with an effective date of 2 days after publication. Since there are known parts with this unsafe condition, their AD requires compliance with the corrective actions before further flight. Our U.S. AD 2007–21–17 mandates replacement of the MLG radius rod with a new modified radius rod. Some of the modified radius rods are fitted with the incorrectly manufactured buffer springs. As a result, some operators who have complied with AD 2007–21–17 may have installed on airplanes the above-mentioned parts with the unsafe condition. Also, these airplanes operate in 14 CFR parts 121 and 135 revenue service, which increases the risk factor for failure because of the increased operation. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0570; Directorate Identifier 2009–CE–033–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–13–10 British Aerospace Regional Aircraft: Amendment 39–15949; Docket No. FAA–2009–0570; Directorate Identifier 2009–CE–033–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 26, 2009.

Affected ADs

(b) This AD affects some of the part numbers used as terminating action for AD 2007–21–17, Amendment 39–15235 (72 FR 60228, October 24, 2007).

Applicability

(c) This AD applies to Model HP.137 Jetstream Mk.1, Jetstream Series 200 and 3101, and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

Subject

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

Reason

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

BAE systems have been notified by the MLG radius rod manufacturer, APPH Ltd, that a batch of incorrectly manufactured Buffer Springs (part number 184818) had been supplied to their parts distributor and MRO facilities in North America.

There is a risk that any radius rod fitted with one of these incorrectly manufactured Buffer Springs could jam in an unlocked position.

This condition, if not corrected, could result in MLG collapse.

For the reasons described above, this Emergency AD requires the replacement of each affected radius rod with a serviceable unit and allows the installation of the affected radius rods only after the accomplishment of APPH Service Bulletins 1847–32–14 and 1862–32–14.

Actions and Compliance

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

(1) Before further flight, inspect the main landing gear (MLG) radius rod to identify if you have one of the affected part numbers (P/Ns) (P/N 1847/D through 1847/N and 1862/D through 1862/N) installed on the airplane following British Aerospace Jetstream Series 3100 and 3200 Alert Service Bulletin 32–A–JA090640, dated June 2009. If you do not have one of the affected P/Ns installed, then only paragraphs (f)(3) and (f)(4) of this AD apply to you.

(2) If as a result of the inspection required in paragraph (f)(1) of this AD you find one of the affected P/N MLG radius rods installed

on the airplane, before further flight, replace the MLG radius rod with one of the following:

(i) A serviceable MLG radius rod that is not in one of the following P/N ranges: 1847/D through 1847/N or 1862/D through 1862/N; or

(ii) An affected P/N MLG radius rod that has already been inspected following APPH Ltd. Service Bulletin 1847–32–14 or 1862–32–14, as applicable, both dated June 2009, and found to be serviceable.

(3) As of June 26, 2009 (the effective date of this AD), do not install an affected part number MLG radius rod unless it has been inspected following APPH Ltd. Service Bulletin 1847–32–14 or 1862–32–14, as applicable, both dated June 2009, and found to be serviceable.

Note 1: The inspection requirements of paragraph (f)(3) above apply to any replacement required per AD 2007–21–17.

(4) Within 30 days after the inspection required in paragraph (f)(1) of this AD, send an Accomplishment (Inspection) Report to BAE Systems following the instructions in paragraph 2.C of British Aerospace Jetstream Series 3100 and 3200 Alert Service Bulletin 32–A–JA090640, dated June 2009. Include the details of any radius rods removed.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Special Flight Permit

(h) Under 14 CFR 39.23, we are limiting special flight permits for the purpose of compliance with this AD under the following conditions:

(1) Operate the airplane only with the MLG in the down and verified locked position throughout the entire flight; and

(2) Coordinate additional flight restrictions with British Aerospace Regional Aircraft using the contact information provided in paragraph (j)(2) of this AD.

Related Information

(i) Refer to EASA Emergency AD No. 2009–0121–E, dated June 9, 2009; British Aerospace Jetstream Series 3100 and 3200 Alert Service Bulletin 32–A–JA090640, dated June 2009 (includes an attached Accomplishment Report); and APPH Ltd. Service Bulletins 1847–32–14 and 1862–32–14, both dated June 2009, for related information.

Material Incorporated by Reference

(j) You must use British Aerospace Jetstream Series 3100 and 3200 Alert Service Bulletin 32–A–JA090640, dated June 2009 (includes an attached Accomplishment Report) and APPH Ltd. Service Bulletins 1847–32–14 and 1862–32–14, as applicable, both dated June 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact BAE Systems (Operations) Ltd., Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44 1292 675704; e-mail: *RApublications@baesystems.com;* Internet: *http://www.baesystems.com/Capabilities/Air/.*

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

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

Issued in Kansas City, Missouri, on June 18, 2009.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service

[FR Doc. E9–14816 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–1229; Airspace Docket No. 08–ASW–26]

Amendment of Class E Airspace; Natchitoches, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the legal description of the Natchitoches Regional Airport, Natchitoches, LA, Class E airspace published in the **Federal Register,** changing the term ''northeast of the airport'' to ''south of the airport''. All other legal descriptions for the Natchitoches Regional Airport remain the same.

DATES: 0901 UTC, July 2, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On January 16, 2009, the FAA published in the **Federal Register** a Notice of Proposed Rulemaking to amend Class E airspace at Natchitoches Regional Airport, Natchitoches, LA (74 FR 2909). On April 15, 2009, the FAA published in the **Federal Register** a final rule amending Class E airspace at Natchitoches, LA (74 FR 17389), Docket No. FAA–2008–1229. Subsequent to publication, the FAA found that the term ''northeast'' was incorrectly used.

Final Rule, Correction

In **Federal Register** document (FR doc. E9–8574) published on April 15, 2009 (74 FR 17389), page 17390, column 2, under the title ''ASW LA E5 Natchitoches, LA [Amended]'', in the 8th line, change the word ''northeast'' to read ''south.''

Issued in Fort Worth, TX, on June 16, 2009.

Roger M. Trevino,

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

[FR Doc. E9–14817 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0326; Airspace Docket 09–ASO–15]

Establishment of Class D and Class E Airspace, Modification of Class E Airspace; Ocala, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class D airspace and Class E surface airspace as an extension of the Class D airspace and modifies the existing Class E airspace that extends upwards from 700 feet above the surface of the Earth (E5) at Ocala International Airport—Jim Taylor Field in Ocala, FL. A new Federal Contract Air Traffic Control Tower is being built and the current Instrument Approach Procedures at Ocala International Airport—Jim Taylor Field are being amended. It is regulatory, therefore, that Class D and Class E surface airspace be established, and the existing Class E5 airspace be modified. This rule increases the safety and management of the National Airspace System (NAS) around Ocala International Airport—Jim Taylor Field.

DATES: Effective 0901 UTC, August 27, 2009. Comments should be received no later than July 24, 2009. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2009–0326; Airspace Docket No. 09–ASO–015, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0326; Airspace Docket No. 09–ASO–015.'' The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14 of the Code of Federal Regulations (14 CFR) part 71 establishes Class D airspace and Class E surface airspace as an extension to Class D (E4) within a 4.4-mile radius plus minor extensions at the Ocala International Airport—Jim Taylor Field. To support Instrument Flight Rules operations at the airport, this rule also modifies the existing Class E5 airspace (airspace designated as beginning 700 feet or more above the surface of the Earth). This amendment also notes a name change from Ocala Municipal to Ocala International Airport—Jim Taylor Field.

Class D and Class E airspace designations are published in Paragraph 5000, 6004 and 6005 respectively, of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein 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 various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Class D and Class E airspace at Ocala International Airport—Jim Taylor Field in Ocala, FL.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D OCALA, FL [NEW]

Ocala International Airport—Jim Taylor Field, Ocala, FL
(Lat. 29°10′21″ N, long. 082°13′27″ W)

That airspace extending upward from the surface of the Earth to and including 1,500 feet MSL within a 4.4-mile radius of the Ocala International Airport—Jim Taylor Field. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

ASO FL E4 OCALA, FL [NEW]

Ocala International Airport—Jim Taylor Field, Ocala, FL
(Lat. 29°10′21″ N, long. 082°13′27″ W)

That airspace extending upward from the surface of the Earth within 2.4 miles each side of the 174° radial from the airport from 4.4 miles to 7.9 miles southeast of the airport. This Class E Surface airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 OCALA, FL [REVISED]

Ocala International Airport—Jim Taylor Field, Ocala, FL
(Lat. 29°10′21″ N, long. 082°13′27″ W)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of Ocala International Airport—Jim Taylor Field.

* * * * *

Issued in College Park, Georgia, on June 9, 2009.

Signed by:

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9–14821 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes; Correction

AGENCY: United States Parole Commission, Department of Justice.

ACTION: Interim rule; correction.

SUMMARY: On June 17, 2009, the U.S. Parole Commission published an interim rule with request for comments. The effective date for the rule was inadvertently omitted from the document. This correction establishes June 17, 2009, as the effective date of the interim rule. Comments continue to be accepted until August 31, 2009. The Parole Commission also is taking this opportunity to make some technical corrections to the rule.

DATES: *Effective Date:* The interim rule published June 17, 2009 (74 FR 28602) is effective June 17, 2009.

FOR FURTHER INFORMATION CONTACT: Rockne Chickinell, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: In rule FR Doc. 2009–14157 published on June 17, 2009 (74 FR 28602), make the following corrections:

■ 1. On page 28602, in the third column, after **DATES:**, add the phrase ''This interim rule is effective June 17, 2009.''

§ 2.43 [Corrected]

■ 2. On page 28604, in the third column, the paragraph designations ''(A)'' and ''(B)'' under paragraph (g)(1) are corrected to read ''(i)'' and ''(ii)'', respectively.

§ 2.65 [Corrected]

■ 3. On page 28605, in the first column in § 2.65(i), in the third and fourth lines, the words ''these regulations'' are revised to read ''this part''.

§ 2.95 [Corrected]

■ 4. On page 28605, in the second column, the paragraph designations ''(A)'' and ''(B)'' under paragraph (e)(1) are corrected to read ''(i)'' and ''(ii)'', respectively.

§ 2.96 [Corrected]

■ 5. On page 28605, in the third column, in amendatory instruction 9, after the

words ''first sentence'', add the words ''of the introductory text''.

§ 2.97 [Corrected]

■ 6. On page 28605, in the third column, in the last line, add the words ''of this section'' after ''and (d)(3)''.

■ 7. On page 28606, in the first column, the paragraph designations ''(2)(A)'' and ''(B)'' are corrected to read ''(2)(i)'' and ''(ii)'', respectively.

§ 2.208 [Corrected]

■ 8. On page 28606, in the second column, the paragraph designations ''(A)'' and ''(B)'' under paragraph (d)(1) are corrected to read ''(i)'' and ''(ii)'', respectively.

Dated: June 19, 2009.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. E9–14977 Filed 6–23–09; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0202]

RIN 1625–AA09

Drawbridge Operation Regulations; Raritan River, Arthur Kill and Their Tributaries, Staten Island, NY and Elizabeth, NJ

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is changing the drawbridge operating regulations governing the operation of the Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill and the New Jersey Transit (NJTRO) Railroad Bridge at mile 0.5, across the Raritan River. This interim rule is intended to better meet the present needs of navigation and enhanced needs of rail traffic resulting from the resumption of rail traffic across the Arthur Kill (AK) Bridge.

DATES: This interim rule is effective on June 24, 2009, and is applicable beginning June 13, 2009. Comments and related material must reach the Coast Guard on or before July 24, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2009–0202 using any one of the following methods:

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

(2) *Fax:* (202) 493–2251.

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

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

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Gary Kassof, Project Officer, First Coast Guard District, (212) 668–7165, *Gary.kassof@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0202), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material online, by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://ww.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2009–0202'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0202 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the

Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the substantive changes to the Drawbridge Operation Regulations implemented under this interim rule were previously tested successfully in a series of temporary deviations, with request for comment, issued by the Coast Guard. The most recent temporary deviation in effect from December 15, 2008 through June 12, 2009, will expire before a permanent rule change can be made utilizing the normal regulatory two step process of publishing a notice of proposed rulemaking with request for comment and a final rule. We are publishing this interim rule in order to make the successfully tested changes to the regulations effective the day after the existing temporary deviation expires on June 12, 2009.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists, for the same reasons discussed above, for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill, has a vertical clearance of 31 feet at mean high water, and 35 feet at mean low water in the closed position. The New Jersey Transit (NJTRO) Railroad Bridge at mile 0.5, across the Raritan River, has a vertical clearance of 8 feet at mean high water and 13 feet at mean low water in the closed position.

The existing drawbridge operating regulations listed at 33 CFR 117.747, require the draws of all bridges across the Raritan River, Arthur Kill and their tributaries to open on signal at all times; except that, from 7:30 a.m. to 10 a.m. and from 5 p.m. to 7:30 p.m., the draws may be opened for the passage of vessels for periods no longer than ten minutes or remain closed for the passage of land traffic for no longer than ten minutes.

The New Jersey Transit Railroad Bridge at mile 0.5, across the Raritan River and the Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill are the only drawbridges operating under this regulation at present.

Rail traffic was suspended for many years on the rail line that crosses the Arthur Kill (AK) Bridge. During the time rail traffic was suspended across Arthur Kill the Arthur Kill (AK) Railroad Bridge was locked in the full open position.

Several years ago the Arthur Kill (AK) Railroad Bridge was mechanically and structurally rehabilitated as part of New York City Economic Development Corporation's Full Freight Access Initiative, and restored to good operating condition in 2007 enabling restoration of rail freight service across the Arthur Kill (AK) Railroad Bridge to the Staten Island Landfill facility and the New York Container Terminal, formerly known as the Howland Hook Terminal. Rail traffic began crossing the re-opened bridge in June of 2007.

After a short period of time, it became apparent, that the existing drawbridge operation regulations, as written, would no longer effectively meet the present complex needs of navigation and the revitalized volume of rail traffic that would be crossing the Arthur Kill (AK) Railroad Bridge.

The bridge owner, New York City Economic Development Corporation (NYCEDC), requested a change to the drawbridge operation regulations to help facilitate the resumption of rail traffic crossing the Arthur Kill (AK) Railroad Bridge.

As a result of the above described transition in the needs of commerce, the Coast Guard conducted an evaluation, comprised of three temporary test deviations with public comment periods, to help determine the best drawbridge operation regulations to meet the present and future needs of marine and rail transportation.

Each test deviation modified the previous test as a result of their observed effectiveness and comments received from the public.

After evaluating the results of our third temporary deviation the Coast Guard concluded that the operating procedure tested in the third deviation was the most reasonable and effective drawbridge operation regulation which best addressed the present and future needs of navigation and rail traffic.

Discussion of Proposed Rule

The Coast Guard is changing the drawbridge operation regulations listed at 33 CFR 117.747, and also to adding a new section 33 CFR 117.702, separating the listing for the Raritan River and Arthur Kill into two separate sections in the Code of Federal Regulations (CFR), since the only two moveable bridges listed under 33 CFR 117.747, the Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill and the New Jersey Transit (NJTRO) Railroad Bridge at mile 0.5, across the Raritan River are not located near each other geographically and are on different waterways.

The New Jersey Transit (NJTRO) Railroad Bridge is the only drawbridge presently crossing the Raritan River.

Under 33 CFR 117.747 Raritan River, we will retain the morning and afternoon rush hour closures in the revised regulation but will eliminate all the redundant and obsolete language, such as the reference that public vessels be passed as soon as possible, which is now listed under 33 CFR 117.31, in this part. The language stating that the owners of each bridge shall maintain tugs at each drawbridge will also be removed since it is obsolete language and no longer necessary by present standards or for any known reason.

Under the new section, 33 CFR 117.702 Arthur Kill, we are listing the drawbridge operation regulations for the Arthur Kill (AK) Railroad Bridge, which was the subject of the three temporary test deviations previously discussed.

This interim rule for the Arthur Kill (AK) Railroad Bridge will require the Arthur Kill (AK) Railroad Bridge to remain in the open position at all times except during periods when it is closed for the passage of rail traffic. Conrail, the bridge operator, will maintain a dedicated telephone hot line at (973) 690–2454 for coordination of anticipated bridge closures.

Tide restrained deep draft vessels should call the hot line daily to advise of expected times of vessel transit through the bridge. The bridge may not close for the passage of trains during any high tide period once a deep draft tide restrained vessel notifies the bridge of its intent to transit through the bridge. High tide is considered by this rule to be from 2 hours before predicted high tide to a half hour after predicted high tide at The Battery, New York.

The bridge operator will issue a manual broadcast notice to mariners for a minimum range of 15 miles on VHF–FM channel 13 and 16, of its intent to close the bridge for a period of up to thirty minutes. The broadcast will occur at 90 minutes prior and again at 75 minutes prior to provide notice of a bridge closure.

Beginning at 60 minutes prior to a bridge closure automated or manual broadcasts will be repeated at 15-minute intervals and at 10 and 5 minutes prior to the bridge closure.

Two consecutive bridge closures are authorized each day to allow multiple train movements across the bridge. The closures will be fifteen minutes in duration and separated by a thirty-minute bridge open period.

Vessels will be required to plan their transits around the announced closure periods; however, a request for up to a 30-minute delay in the bridge closures to allow navigation to meet tide or current requirements would be granted if requested within 30 minutes after the initial broadcast notice to close the bridge is given. Requests received after the initial 30 minutes will not be granted.

In the event of bridge operational failure, the bridge operator must notify the Coast Guard Captain of the Port New York immediately and must dispatch a repair crew to the bridge to be on scene at the bridge no later than 45 minutes after the bridge fails to operate. A repair crew must remain at the bridge until the bridge has been restored to normal operations or the bridge must be raised and locked in the fully open position.

Regulatory Analysis

We developed this interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This interim rule is not a significant regulatory action. This conclusion is based upon the fact that vessel and rail traffic will both be able to transit over and through the Arthur Kill (AK) Railroad Bridge under a balanced and reasonable schedule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that marine and rail traffic will both be able to transit over and through the Arthur Kill (AK) Railroad Bridge under a balanced and reasonable schedule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact, Commander (dpb), First Coast Guard District, Bridge Branch, One South Street, New York, NY 10004. The telephone number is (212) 668–7165. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction. Under paragraph (32)(e), of the Instruction, neither an environmental analysis checklist nor a categorical exclusion determination is required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new section 33 CFR 117.702 to read as follows:

§ 117.702 Arthur Kill

(a) The draw of the Arthur Kill (AK) Railroad Bridge shall be maintained in the full open position for navigation at all times, except during periods when it is closed for the passage of rail traffic.

(b) The bridge owner/operator shall maintain a dedicated telephone hot line for vessel operators to call the bridge in advance to coordinate anticipated bridge closures. The telephone hot line number shall be posted on signs at the bridge clearly visible from both the up and downstream sides of the bridge.

(c) Tide restrained deep draft vessels shall notify the bridge operator, daily, of their expected times of vessel transits through the bridge, by calling the designated telephone hot line.

(d) The bridge shall not be closed for the passage of rail traffic during any predicted high tide period if a tide restrained deep draft vessel has provided the bridge operator with an advance notice of their intent to transit through the bridge. For the purposes of this regulation, the predicted high tide period shall be considered to be from two-hours before each predicted high tide to a half-hour after each predicted high tide taken at the Battery, New York.

(e) The bridge operator shall issue a manual broadcast notice to mariners of the intent to close the bridge for a period of up to thirty minutes for the passage of rail traffic, on VHF–FM channels 13 and 16 (minimum range of 15 miles) at 90-minutes before and again at 75-minutes before each bridge closure.

(f) Beginning at 60 minutes prior to each bridge closure, automated or manual broadcast notice to mariners must be repeated at 15 minute intervals and again at 10 and 5 minutes prior to each bridge closure and once again as the bridge begins to close and appropriate sound signal given.

(g) Two fifteen minute bridge closures may be provided each day for the passage of multiple rail traffic movements across the bridge. Each fifteen minute bridge closure shall be separated by at least a thirty minute period when the bridge is returned to and remains in the full open position. Notification of the two fifteen minute closures shall follow the same procedures outlined in paragraphs e and f above.

(h) A vessel operator may request up to a 30 minute delay for any bridge closure in order to allow vessel traffic to meet tide or current requirements; however, the request to delay the bridge closure must be made within 30 minutes following the initial broadcast for the bridge closure. Requests received after the initial 30 minute broadcast will not be granted.

(i) In the event of a bridge operational failure, the bridge operator shall immediately notify the Coast Guard Captain of the Port New York. The bridge owner/operator must provide and dispatch a bridge repair crew to be on scene at the bridge no later than 45 minutes after the bridge fails to operate. A repair crew must remain at the bridge at all times until the bridge has been fully restored to normal operations or the bridge must be raised and locked in the fully open position.

■ 3. Section 33 CFR 117.747 is revised to read as follows:

§ 117.747 Raritan River

(a) The draw of New Jersey Transit Rail Operations Railroad Bridge at mile 0.5 shall open on signal; except that, from 6 a.m. to 9:30 a.m. and 4:30 p.m. to 7:30 p.m., Monday through Friday, except holidays, the bridge need not open.

(b) The bridge owner shall provide and keep in good legible condition two clearance gauges with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(c) Trains and locomotives shall be controlled so that any delay in opening the draw span shall not exceed ten minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks before the bridge may be opened.

Dated: May 28, 2009.

Dale G. Gabel,

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

[FR Doc. E9–14755 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0439]

Drawbridge Operation Regulations; Cheesequake Creek, South Amboy, NJ, Public Event

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 35 Bridge across Cheesequake Creek, mile 0.0, at South Amboy, New Jersey. This deviation is necessary to facilitate the Rolling Thunder Freedom Ride. The deviation allows the bridge to remain in the closed position for one hour during a public event to facilitate public safety.

DATES: This deviation is effective from 11:45 a.m. through 12:45 p.m. on September 20, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0439 and are available online by going to *www.regulations.gov*, selecting the

Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0439 in the docket ID box, pressing enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Joe Arca, Project Officer, First Coast Guard District, telephone 212 668–7165, *joe.m.arca@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The owner of the bridge, the New Jersey Department of Transportation, requested this temporary deviation to facilitate a public event, the Rolling Thunder Freedom Ride. The bridge must remain in the closed position for one hour while the riders pass over the bridge.

The Route 35 Bridge, across the Cheesequake Creek at mile 0.3, at South Amboy, New Jersey, has a vertical clearance in the closed position of 25 feet at mean high water and 30 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.709.

Under this temporary deviation the Route 35 Bridge may remain in the closed position from 11:45 a.m. through 12:45 p.m. on September 20, 2009. Vessels that can pass under the draw in the closed position may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 3, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E9–14769 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–1175]

RIN 1625–AA09

Drawbridge Operation Regulation; Pamunkey River, West Point, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of the Eltham Bridge (SR33/30), at mile 1.0, across Pamunkey River at West Point, Virginia. This final rule will allow the bridge to open on signal if at least four hours notice is given at all times while still providing for the reasonable needs of navigation, due to the anticipated infrequency of requests for vessel openings of the drawbridge.

DATES: This rule is effective July 24, 2009.

ADDRESSES: Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–1175 and are available online by going to *www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–1175 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Sandra S. Elliott, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6557, e-mail *Sandra.S.Elliott@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operation, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 12, 2009, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulations; Pamunkey River, West Point, VA'' in the **Federal Register** (74 FR 10692). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Virginia Department of Transportation (VDOT) is responsible for the operation of the Eltham Bridge (SR33/30), at mile 1.0, across Pamunkey River at West Point, VA. VDOT requested that the Coast Guard consider a four hour advance notification for vessel openings due to the infrequency of requests for vessel openings of the drawbridge.

The new Eltham bascule bridge has recently been completed and is located immediately adjacent and downstream from the former structure. The former bridge provided 10 feet of vertical clearance over the navigable channel. The new bridge provides an additional 45 feet of vertical clearance over the navigable channel. The increase in vertical clearance has eliminated the need to open on demand for all existing commercial traffic and it is anticipated that there will be very few requests other than for scheduled monthly maintenance openings.

The existing operating regulation is set out in 33 CFR § 117.1023, which requires the draw to open on signal, except that the bridge need not open for commercial crabbing and fishing vessels and recreational vessels on Mondays through Fridays, except Federal Holidays, from 7 a.m. to 9 a.m., 12 noon to 1 p.m. and 4 p.m. to 6 p.m., at all other times, the bridge will open for these vessels only on the hour, Monday through Friday, except Federal holidays; and Public vessels of the United States must pass at any time.

Bridge opening data, supplied by VDOT, revealed a significant decrease in yearly openings. In the past three years from 2005 to 2007, the bridge opened for vessels 593, 415 and 187 times, respectively. Due to the anticipated infrequency of requests for vessel openings of the drawbridge, VDOT requested to change the current operating regulation by requiring the draw of the bridge to open on signal if at least four hours notice is given year-round.

Discussion of Comments and Changes

The Coast Guard did not receive any comments on the NPRM. Therefore, no changes were made to the final rule.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This conclusion is based on the fact that the changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the proposed scheduled bridge openings to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners and operators of vessels needing to transit the bridge who can not clear the bridge at its closed position. This rule will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of vessels, and mariners who plan their transits in accordance with the proposed scheduled bridge openings can minimize delay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph 32(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.1023 to read as follows:

§ 117.1023 Pamunkey River

The draw of the Eltham Bridge (SR33/30) mile 1.0, located in West Point, Virginia shall open on signal if at least four hours notice is given at all times.

Dated: June 10, 2009.

Fred M. Rosa, Jr.,

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

[FR Doc. E9–14772 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0440]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Nassau County, NY, Public Event

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Meadowbrook State Parkway Bridge across Sloop Channel, mile 12.8, and the Long Beach Bridge, mile 4.7, across Reynolds Channel, Nassau County, New York. This deviation is necessary to facilitate the Salute to Veterans Fireworks Display. The deviation allows the bridges to remain in the closed position during the Salute to Veterans event to facilitate public safety.

DATES: This deviation is effective from 9:30 p.m. on June 27, 2009 through midnight on June 28, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0440 and are available online by going to *www.regulations.gov*, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0440 in the docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone 212 668–7165, *judy.k.leung-yee@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Town of Hempstead, Department of Public Safety, requested this temporary deviation to facilitate a public event, the Salute to Veterans Fireworks Display. The Meadowbrook State Parkway Bridge, mile 12.8 across the Sloop Channel and the Long Beach Bridge, mile 4.7, across Reynolds Channel must remain in the closed position for two and one half hours to help facilitate public safety during the fireworks event.

The Meadowbrook Parkway Bridge, across Sloop Channel at mile 12.8, at Nassau County, New York, has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The Long Beach Bridge at mile 4.7 across Reynolds Channel has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.799.

Under this temporary deviation the Meadowbrook State Parkway Bridge may remain in the closed position from 9:30 p.m. through midnight and the Long Beach Bridge may remain in the closed position from 10 p.m. to midnight on June 27, 2009, with a rain date of June 28, 2009. Vessels that can pass under the draw in the closed position may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 3, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E9–14768 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2009–0401]

Safety Zone; Red, White, and Blue Tahoe Fireworks Display, Lake Tahoe, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce Red, White, and Blue Tahoe Fireworks Display safety zone from 5 p.m. on July 3, 2009 through 10 p.m. on July 4, 2009 in position 39°14′16″ N, 119°53′59″ W (NAD83). This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 5 p.m. on July 3, 2009 through 10 p.m. on July 4, 2009.

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

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Red, White, and Blue Tahoe Fireworks Display in 33 CFR 165.1191 on July 4, 2009. The fireworks launch site is approximately 700 feet off the shore line of Incline Village in Crystal Bay in position 39°14′16″ N, 119°53′59″ W (NAD83).

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

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

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

Dated: June 8, 2009.

P.M. Gugg,

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

[FR Doc. E9–14770 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

Standards of Performance for New Stationary Sources

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 60 (§ 60.1 to end of part 60 sections), revised as of July 1, 2008, on page 637, in § 60.664, the equation in paragraph (f)(1) introductory text is corrected to read as follows:

§ 60.664 Test methods and procedures.

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(f) * * *

(1) * * *

$$\mathrm{TRE} = \frac{1}{E_{TOC}}\left[a + b\left(Q_s\right)^{0.88} + c\left(Q_s\right) + d\left(Q_s\right)\left(H_T\right) + e\left(Q_s\right)^{0.88}\left(H_T\right)^{0.88} + f\left(Y_s\right)^{0.5}\right]$$

* * * * *

[FR Doc. E9–14992 Filed 6–23–09; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA EPA–HQ–OAR–2005–0161; FRL–8922–6]

RIN 2060–AO80

Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing amendments to the Renewable Fuel Standard program requirements. Following publication of the May 1, 2007, final rule promulgating the Renewable Fuel Standard regulations, EPA discovered a number of technical errors and areas within the regulations that could benefit from clarification or modification. In parallel proposed and direct final rules published on October 8, 2008, EPA proposed to amend the regulations to make the appropriate corrections, clarifications and modifications. However, EPA received adverse comment on several provisions in the parallel proposed and direct final rules and, on November 26, 2008, withdrew those provisions from the direct final rule that drew adverse comment. In today's action, EPA is addressing the comments received on the portions of the direct final rule that were withdrawn and is finalizing those withdrawn provisions with minor clarifying changes.

DATES: This final rule is effective on August 24, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2005–0161. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, ID No. EPA–HQ–OAR–2005–0161, 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) 566–9744.

FOR FURTHER INFORMATION CONTACT: Meg McCarthy, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality (6406J), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., 20460; telephone number: (202) 343–9968; fax number: (202) 343–2802; e-mail address: *mccarthy.meg@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially affected by this action include those involved with the production, importation, distribution and sale of gasoline motor fuel or renewable fuels such as ethanol and biodiesel. Regulated categories and entities affected by this action include:

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum refiners, importers.
Industry	325193	2869	Ethyl alcohol manufacturers.
Industry	325199	2869	Other basic organic chemical manufacturers.
Industry	424690	5169	Chemical and allied products merchant wholesalers.
Industry	424710	5171	Petroleum bulk stations and terminals.
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers.
Industry	454319	5989	Other fuel dealers.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of part 80, subpart K of title 40 of the Code of Federal Regulations. If you have any question regarding applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section above.

II. Renewable Fuel Standard Program Amendments

EPA issued final regulations implementing the Renewable Fuel Standard Program on May 1, 2007. EPA subsequently identified a number of technical errors and ambiguities in the regulations and, in parallel proposed and direct final rules published on October 2, 2008, proposed to amend the regulations to correct these deficiencies. EPA received adverse comment on certain of the proposed changes, so, on November 26, 2008, formally withdrew the portions of the direct final rule that were the subject of adverse comment. Those provisions consisted of amendments to 40 CFR 80.1129(b)(1) and 80.1129(b)(8) (providing that a party with a small refinery or small refiner exemption may only separate RINs that have been assigned to a volume of renewable fuel that the party blends into motor vehicle fuel), 40 CFR 80.1129(b)(4) (providing that any party may separate the RINs from renewable fuel that it produces or markets for use in motor vehicles, or uses in motor vehicles without further blending), and 40 CFR 80.1131(a)(8) and 80.1131(b)(4) (changing the location in the RFS regulations of a provision stating that a RIN that is transferred to two or more parties is considered an invalid RIN unless EPA in its sole discretion determines that some portion of these RINs is valid). EPA published a parallel proposed rule (73 FR 57274) on the same day as the direct final rule. The proposed rule invited comment on the substance of the direct final rule and indicated that a second comment period would not be offered on the proposal in the event that portions of the direct final rule were withdrawn in response to adverse comment. In this action, we are responding to the comments received on the portions of the direct final rule that were withdrawn, and we are finalizing the proposed technical corrections with minor clarifying changes.

A. Separating RINs: Parties With Small Refiner or Small Refinery Exemption

EPA proposed the addition of 40 CFR 80.1129(b)(8) and a conforming change to 80.1129(b)(1) to clarify that a party with a small refinery or small refiner exemption may only separate Renewable Identification Numbers (RINs) that have been assigned to a volume of renewable fuel that the party blends into motor vehicle fuel.

In response to this proposed amendment, EPA received a comment which stated that the proposed 80.1129(b)(8) would result in the provision being overly broad. The comment further articulated a concern that EPA has mistakenly concluded that all refiners who have received either a small refiner exemption under 40 CFR 80.1142 or a small refinery exemption under 40 CFR 80.1141 are not obligated parties under the RFS program, and therefore, that those refiners may only separate RINs that have been assigned to volumes of renewable fuel that the refiner blends into motor vehicle fuel. Refiners who have received the small refinery exemption either are not obligated parties because they do not operate other non-exempt refineries or they are obligated parties because they do operate other non-exempt refineries. The commenter argued that the proposed technical amendment to add 40 CFR 80.1129(b)(8), as written, applies to both groups, but that it should apply only to the former group of refiners and not the latter.

EPA agrees with the comment and has added a clause to the final amendment to 40 80.1129(b)(8) to clarify our intention. Thus, the final rule states that it applies only to parties that have received a small refinery or small refiner exemption and who are ''not otherwise obligated parties.''

B. Separating RINs for Renewable Fuel Designated for Use as Motor Vehicle Fuel and Used as Motor Vehicle Fuel

EPA proposed changes to 40 CFR 80.1129(b)(4) in order to clarify that any party, not just renewable fuel producers or importers, may separate the RINs from renewable fuel when it designates that fuel for use in motor vehicles and the renewable fuel is used in motor vehicles in that designated form.

EPA received a comment on 80.1129(b)(4) which stated that that regulation should clarify that EPA intends the provision to apply to motor vehicle fuel used in its neat form, deposited directly into a motor vehicle fuel supply tank as motor vehicle fuel. In response, EPA confirms that the provision was originally meant to apply to neat renewable fuel that is designated for use as motor vehicle fuel, and is used as motor vehicle fuel in its designated form. In other words, the provision applies to neat renewable fuel that is directly used as motor vehicle fuel and is not blended any further. For purposes of the RFS program, ''neat renewable fuel'' is defined in 80.1101(p) as ''a renewable fuel to which only *de minimis* amounts of conventional gasoline or diesel have been added.'' Under the RFS program, denatured ethanol is considered neat renewable fuel, as is denatured ethanol with only an additional *de minimis* quantity of gasoline added. In the case of biodiesel, a biodiesel producer would be authorized under 80.1129(b)(4) to separate RINs for B100 or B99 that it designates as motor vehicle fuel, providing that the fuel is in fact used that way.

In contrast, any party that blends ethanol with more than a *de minimis* additional amount of gasoline beyond what is used for denaturing, or blends biodiesel with 20 volume percent or more of conventional diesel must separate any RINs assigned to that volume of renewable fuel, as required under 80.1129(b)(2). Biodiesel blends in which conventional diesel constitutes less than 20 volume percent and more than one percent are ineligible for RIN separation under any circumstances, as specified in 80.1129(b)(2) and (b)(5). As noted in the preamble to the final RFS regulations, it is EPA's understanding that in the vast majority of cases, biodiesel is blended with diesel in biodiesel concentrations of 80 volume percent or less. Therefore, EPA did not anticipate that this restriction would operate to significantly restrict biodiesel blending for fuel production, while it would afford some measure of protection against the possibility that renewable fuel producers could hold back RINs from obligated parties for the purpose of driving up their price. However, we may revisit this issue in a future RFS rulemaking since circumstances may change such that biodiesel blends of 81 percent or greater begin to be used more commonly as motor vehicle fuel.

In the proposed technical amendments, EPA proposed to expand the parties eligible to separate RINS for neat renewable fuel to include any party that produces, imports, owns, sells or uses such fuel. EPA is finalizing the proposed change to 80.1129(b)(4) and, in response to comment, is clarifying that this section applies only to neat renewable fuel.

In addition, EPA is making conforming amendments to 80.1151(b)(5) and 80.11129(b)5)(ii) to reflect the expanded applicability of 80.1129(b)(4).

C. Duplicate RINs

EPA proposed changes to 40 CFR 80.1131(a)(8) and 80.1131(b)(4), which consisted of changing the location in the RFS regulations of a provision stating that a RIN that is transferred to two or more parties is considered an invalid RIN unless EPA in its sole discretion determines that some portion of these RINs is valid.

EPA received a comment which stated that EPA should not invalidate all duplicate RINs, but, rather, the party transferring duplicate RINs should be required to take appropriate actions such as notifying all parties who have received the duplicate RINs, determine which RINs are valid and which are invalid, and transfer replacement RINs to those parties that received invalid RINs.

In response, EPA believes that if duplicate RINs are not made automatically invalid, problems associated with the duplicate RINs may be compounded downstream from the original duplication. For example, additional downstream transfers of duplicate RINs could occur if transferees are confused about which RINs are valid and which are not. EPA believes this type of confusion is minimized by automatically invalidating all RINs for which duplicates have been identified, and giving EPA sole discretion to determine if any of the duplicate RINs are valid. Since EPA received no comment on its proposed relocation of this provision within the RFS program regulations, EPA is finalizing the technical amendments to 40 CFR 80.1131(a)(8) and 80.1131(b)(4) as proposed.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. This final rule simply makes minor technical changes to the RFS regulations and modifies certain requirements to make them less burdensome for regulated parties.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action makes minor technical corrections to the regulations and modifies certain requirements to lessen the burden on related parties while maintaining the overall goals of the program. None of the changes in the rule require any additional information collection burdens. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR part 80, subpart K, under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0600. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

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 today's 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.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This action

makes minor technical corrections to the regulations and modifies certain requirements to lessen the burden on regulated parties. Thus, after considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of 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. This action makes minor technical corrections to the RFS regulations and modifies certain provisions to lessen the requirements for regulated parties. As a result, this rule will have the overall effect of reducing the burden of the RFS regulations on regulated parties. 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. It only applies to gasoline and renewable fuel producers, importers, distributors and marketers and makes minor corrections and modifications to the RFS regulations.

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 final 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. This action makes minor technical corrections and certain modifications that lessen the burden on related parties. Thus, Executive Order 13132 does not apply to this rule.

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

This final rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It applies to gasoline and renewable fuel producers, importers, distributors and marketers. This action makes minor corrections and modifications to the RFS regulations, and does not impose any enforceable duties on communities of Indian tribal governments. 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 rule is not subject to Executive Order 13211 (66 FR 18355 (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 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 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 final 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. These technical amendments do not relax the control measures on sources regulated by the RFS regulations and therefore will not cause emissions increases from these sources.

K. Congressional Review Act

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of 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).

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: June 18, 2009.

Lisa P. Jackson,

Administrator.

■ 40 CFR Part 80 is amended as follows:

PART 80–REGULATION OF FUEL AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7542, 7545, and 7601(a).

■ 2. Section 80.1129 is amended as follows:
■ a. By revising paragraph (b)(1).
■ b. By revising paragraph (b)(4).
■ c. By revising paragraph (b)(5)(ii).
■ d. By adding paragraph (b)(8).

§ 80.1129 Requirements for separating RINs from volumes of renewable fuel.

* * * * *

(b) * * *

(1) Except as provided in paragraphs (b)(6) and (b)(8) of this section, a party that is an obligated party according to § 80.1106 must separate any RINs that have been assigned to a volume of renewable fuel if they own that volume.

* * * * *

(4) Any party that produces, imports, owns, sells or uses a volume of neat renewable fuel may separate any RINs that have been assigned to that volume of neat renewable fuel if the party designates the neat renewable fuel as motor vehicle fuel, and the neat renewable fuel is used as a motor vehicle fuel.

(5) * * *

(ii) This paragraph (b)(5) shall not apply to any party meeting the requirements of paragraph (b)(4) of this section.

* * * * *

(8) For a party that has received a small refinery exemption under § 80.1141 or a small refiner exemption under § 80.1142, and who is not otherwise an obligated party, during the period of time that the small refinery or small refiner exemption is in effect the party may only separate RINs that have been assigned to volumes of renewable fuel that the party blends into motor vehicle fuel in accordance with paragraph (b)(2) of this section.

* * * * *

3. Section 80.1131 is amended by adding paragraph (a)(8) and removing paragraph (b)(4) to read as follows:

§ 80.1131 Treatment of invalid RINs.

(a) * * *

(8) In the event that the same RIN is transferred to two or more parties, all such RINs will be deemed to be invalid, unless EPA in its sole discretion determines that some portion of these RINs is valid.

* * * * *

4. Section 80.1151 is amended by revising paragraph (b)(5) to read as follows:

§ 80.1151 What are the recordkeeping requirements under the RFS program?

* * * * *

(b) * * *

(5) Records related to the production, importation, ownership, sale or use of any volume of neat renewable fuel that any party designates as motor vehicle fuel and uses as motor vehicle fuel.

* * * * *

[FR Doc. E9–14849 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0503; FRL–8922–7]

RIN–2060–AO77

Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2009

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this action, EPA is allocating essential use allowances for import and production of Class I ozone-depleting substances for calendar year 2009. Essential use allowances enable a person to obtain controlled Class I ozone depleting substances as part of an exemption to the regulatory ban on the production and import of these chemicals, which became effective January 1, 1996. EPA allocates essential use allowances for production and import of a specific quantity of Class I substances solely for the designated essential purpose. The allocation in this action is 63.0 metric tons of chlorofluorocarbons for use in metered dose inhalers for 2009.

DATES: This final rule is effective June 24, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0503. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Jennifer Bohman, by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC, 20460; by courier service or overnight express: 1301 L Street, NW., Room 1047A, Washington DC, 20005; by telephone: (202) 343–9548; or by e-mail: *bohman.jennifer@epa.gov.*

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I. Basis for Allocating Essential Use Allowances

A. What are essential use allowances?

Essential use allowances are allowances to produce or import certain ozone-depleting substances (ODSs) in the U.S. for purposes that have been deemed ''essential'' by the U.S. Government and by the Parties to the Montreal Protocol on Substances that

Deplete the Ozone Layer (Montreal Protocol).

The Montreal Protocol is the international agreement aimed at reducing and eliminating the production and consumption [1] of ODSs. Eliminating the production and consumption of Class I ODSs is accomplished through adherence to phaseout schedules for specific Class I ODSs [2] which include chlorofluorocarbons (CFCs), halons, carbon tetrachloride, and methyl chloroform. As of January 1, 1996, production and import of most Class I ODSs were phased out in developed countries, including the United States. However, the Montreal Protocol and the Clean Air Act (the Act) provide exemptions that allow for the continued import and/or production of Class I ODSs for specific uses. Under the Montreal Protocol, exemptions may be granted for uses that are determined by the Parties to be ''essential.'' Decision IV/25, taken by the Parties to the Protocol in 1992, established criteria for determining whether a specific use should be approved as essential, and set forth the international process for making determinations of essentiality. The criteria for an essential use, as set forth in paragraph 1 of Decision IV/25, are the following:

- ''(a) That a use of a controlled substance should qualify as 'essential' only if:
- (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and
- (ii) There are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health;
- (b) That production and consumption, if any, of a controlled substance for essential uses should be permitted only if:
- (i) All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and
- (ii) The controlled substance is not available in sufficient quantity and quality from existing stocks of banked or recycled controlled substances, also bearing in mind the developing countries' need for controlled substances.''

[1] ''Consumption'' is defined as the amount of a substance produced in the United States, plus the amount imported into the United States, minus the amount exported to Parties to the Montreal Protocol (see Section 601(6) of the Clean Air Act).

[2] Class I ozone-depleting substances are listed at 40 CFR part 82, subpart A, appendix A.

B. Under what authority does EPA allocate essential use allowances?

Title VI of the Act implements the Montreal Protocol for the United States.[3] Section 604(d) of the Act authorizes EPA to allow the production of limited quantities of Class I ODSs after the phaseout date for the following essential uses:

- (1) Methyl chloroform, ''solely for use in essential applications (such as nondestructive testing for metal fatigue and corrosion of existing airplane engines and airplane parts susceptible to metal fatigue) for which no safe and effective substitute is available.'' Under section 604(d)(1) of the Act, this exemption was available only until January 1, 2005. Prior to that date, EPA issued methyl chloroform allowances to the U.S. Space Shuttle and Titan Rocket programs.
- (2) Medical devices (as defined in section 601(8) of the Act), ''if such authorization is determined by the Commissioner [of the Food and Drug Administration], in consultation with the Administrator [of EPA] to be necessary for use in medical devices.'' EPA issues allowances to manufacturers of metered dose inhalers (MDIs) that use CFCs as propellant for the treatment of asthma and chronic obstructive pulmonary disease.
- (3) Aviation safety, for which limited quantities of halon-1211, halon-1301, and halon-2402 may be produced ''if the Administrator of the Federal Aviation Administration, in consultation with the Administrator [of EPA] determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.'' Neither EPA nor the Parties have ever granted a request for essential use allowances for halon, because alternatives are available or because existing quantities of this substance are large enough to provide for any needs for which alternatives have not yet been developed.

An additional essential use exemption under the Montreal Protocol, as agreed in Decision X/19, is the general exemption for laboratory and analytical uses. This exemption is reflected in EPA's regulations at 40 CFR part 82, subpart A. While the Act does not specifically provide for this exemption, EPA has determined that an exemption for essential laboratory and analytical uses is allowable under the Act as a *de minimis* exemption. The *de minimis* exemption is addressed in EPA's final rule of March 13, 2001 (66 FR 14760–14770). The Parties to the Protocol subsequently agreed (Decision XI/15) that the general laboratory and analytical use exemption does not apply to the following uses: testing of oil and grease, and total petroleum hydrocarbons in water; testing of tar in road-paving materials; and forensic finger-printing. EPA incorporated this exemption at Appendix G to Subpart A of 40 CFR part 82 on February 11, 2002 (67 FR 6352). In a December 29, 2005, final rule, EPA extended the general exemption for laboratory and analytical uses through December 31, 2007 (70 FR 77048), in accordance with Decision XV/8 of the Parties to the Protocol. At the 19th Meeting of the Parties in September 2007, the Parties agreed to extend the global laboratory and analytical use exemption through December 31, 2011, in Decision XIX/18. In a December 27, 2007, final rulemaking EPA took action to (1) extend the laboratory and analytical use exemption from December 31, 2007, to December 31, 2011, for specific laboratory uses, (2) apply the laboratory and analytical use exemption to the production and import of methyl bromide, and (3) eliminate the testing of organic matter in coal from the laboratory and analytical use exemption (72 FR 73264).

[3] *See* Section 614(b) of the Act. EPA's regulations implementing the essential use provisions of the Act and the Protocol are located in 40 CFR part 82.

C. What is the process for allocating essential use allowances?

The procedure set out by Decision IV/25 calls for individual Parties to nominate essential uses and the total amount of ODSs needed for those essential uses on an annual basis. The Protocol's Technology and Economic Assessment Panel (TEAP) evaluates the nominated essential uses and makes recommendations to the Parties. The Parties take the final decisions on whether to approve a Party's essential use nomination at their annual Meeting of the Parties. This nomination process occurs approximately two years before the year in which the allowances would be in effect. The allowances allocated for 2009 in this final rule were first nominated by the United States in January 2007.

For MDIs, EPA requests information from manufacturers about the number and type of MDIs they plan to produce, as well as the amount of CFCs necessary for production. EPA then forwards the information to the Food and Drug Administration (FDA), which determines the amount of CFCs necessary for MDIs in the coming calendar year. Based on FDA's determination, EPA proposes allocations to each eligible entity. Under the Act and the Montreal Protocol, EPA

may allocate essential use allowances in quantities that together are less than or equal to the total amount approved by the Parties. EPA will not allocate essential use allowances in amounts higher than the total approved by the Parties. For 2009, the Parties authorized the United States to allocate up to 282 metric tons (MT) of CFCs for essential uses. In a notice of proposed rulemaking published in the **Federal Register** on January 16, 2009 (74 FR 2954), EPA proposed to allocate 63.0 MT of CFCs for the production of MDIs for the calendar year 2009. In this final rule, EPA is allocating 63.0 MT of CFCs for the production of MDIs for calendar year 2009.

II. Essential Use Allowances for Medical Devices

The following is a step-by-step list of actions EPA and FDA have taken to implement the exemption for medical devices found at section 604(d)(2) of the Act for the 2009 calendar year.

1. On January 16, 2008, EPA sent letters to MDI manufacturers requesting the following information under section 114 of the Act (''114 letters''):

a. The MDI product where CFCs will be used.

b. The number of units of each MDI product produced from 1/1/07 to 12/31/07.

c. The number of units anticipated to be produced in 2008.

d. The number of units anticipated to be produced in 2009.

e. The gross target fill weight per unit (grams).

f. Total amount of CFCs to be contained in the MDI product for 2009.

g. The additional amount of CFCs necessary for production.

h. The total CFC request per MDI product for 2009.

The letters from EPA are available for review in the Air Docket ID No. EPA–HQ–OAR–2008–0503. The companies requested that their responses be treated as confidential business information; for this reason, EPA has placed the responses in the confidential portion of the docket.

2. At the end of January 2008, as required by 40 CFR 82.13(u), EPA received annual reporting information from MDI manufacturers that included such data as the type and quantity of CFCs held at the end of the year (i.e. stocks of pre-1996 and post-1996 CFCs). The data submitted from the MDI manufacturers is available for review in the Air Docket ID No. EPA–HQ–OAR–2008–0503. The companies requested that their individual responses be treated as confidential business information; for this reason, EPA has placed the individual responses in the confidential portion of the docket.

3. On February 13, 2008, EPA sent FDA the information MDI manufacturers provided in response to the 114 letters and information required by 40 CFR 82.13(u) with a letter requesting that FDA make a determination regarding the amount of CFCs necessary for MDIs for calendar year 2009. This letter is available for review in Air Docket ID No. EPA–HQ–OAR–2008–0503.

4. On April 28, 2008, FDA sent a letter to EPA stating the amount of CFCs determined by the Commissioner to be necessary for each MDI company in 2009. FDA's letter informed EPA that it had determined that 88.0 MT of CFCs were necessary for use in medical devices in the year 2009. This letter is available for review in the Air Docket ID No. EPA–HQ–OAR–2008–0503.

5. On August 12, 2008, FDA sent a letter to EPA revising its April 28, 2008 essential use determination. FDA's revised letter informed EPA that it had determined that 63.0 MT of CFCs were necessary for use in medical devices for the year 2009. In its letter, FDA stated that ''The amount of CFCs recommended in our April 28, 2008 letter was based on information available then, that led to assumptions that are now outdated.'' This letter is available for review in the Air Docket ID No. EPA–HQ–OAR–2008–0503.

With respect to the 2009 determination, FDA stated, ''FDA's determination for the allocation of CFCs is lower than the total amount requested by sponsors. In reaching this determination, we took into account the sponsors' production of MDIs that used CFCs as a propellant in 2007, their estimated production in 2008, their estimated production in 2009, their anticipated essential-use allocations in 2008, their current (as of December 31, 2007) stockpile levels, and any intercompany transfers of CFCs. Finally, FDA based its determination for 2009 on an estimate of the quantity of CFCs that would allow manufacturers to have a 12-month stockpile at the end of 2009, in accordance with paragraph 3 of Decision XVI/12 and paragraph 2 of Decision XVII/5.''

The letter stated that in making its determination, FDA made the following assumptions:

- All manufacturers will receive the full essential-use allocation proposed by EPA for calendar year 2008 (72 FR 32269, June 12, 2007);
- All manufacturers will procure the full quantity of CFCs allocated to them for 2008; and
- No bulk CFCs currently held by, or allocated to, any manufacturer will be exported from the United States.

EPA has confirmed with FDA that this determination is consistent with Decision XVII/5, including language on stocks that states that Parties ''shall take into account pre- and post-1996 stocks of controlled substances as described in paragraph 1(b) of Decision IV/25, such that no more than a one-year operational supply is maintained by that manufacturer.'' Allowing manufacturers to maintain up to a one-year operational supply accounts for unexpected variability in the demand for MDI products or other unexpected occurrences in the market and therefore ensures that MDI manufacturers are able to produce their essential use MDIs.

For calendar year 2009, FDA's determination aggregates the amounts of CFC–11, –12, or –114 being allocated to the MDI manufacturer. In its letter FDA stated, ''As has generally been our practice, FDA is aggregating the amounts for CFCs, and is providing recommendations on the total amounts of CFCs necessary to protect the public health. FDA expects manufacturers to maintain an appropriate balance of CFCs necessary to produce their CFC MDIs.''

6. In accordance with FDA's determination, EPA proposed to allocate 63.0 MT of CFCs for the production of MDIs for the calendar year 2009 in a proposed rulemaking published on January 16, 2009 (74 FR 2954).

7. In this final rule, EPA is allocating 63.0 MT of CFCs for the production of MDIs for calendar year 2009.

III. Response to Comments

EPA received comments from two entities on the proposed rule.

One commenter supported the proposed rule and opposed limiting the use of ODSs in MDIs. The commenter noted that lower cost CFC MDIs are a benefit for low-income individuals.

EPA believes that only a limited amount of production or import of CFCs for use in MDIs is necessary in 2009. Section 604 of the Clean Air Act directs EPA to authorize the production of CFCs for essential MDIs if FDA, in consultation with EPA, determines such production to be necessary. FDA, in consultation with EPA, has determined that 63.0 MT of CFCs are necessary to meet the demand for 2009 MDI manufacturing. Therefore, this action allocates 63.0 MT of CFCs for use in MDIs in 2009.

EPA and FDA understand that patients may incur additional costs to purchase inhalers as the market transitions to CFC-free alternatives, such

as HFA MDIs. For example, patients covered by medical insurance may encounter higher co-payments to purchase HFA MDIs, which are brand name products. However, patient assistance programs exist to assist patients with the increased costs. For low-income patients, these programs include free and/or discounted medicines. To assist patients facing higher co-pays associated with the increased costs of the HFA MDIs, programs such as coupons and discounted HFA MDIs are being made available through physicians' offices, at pharmacies, and at individual manufacturers' Web sites.

In a related rulemaking, FDA responded to a similar comment regarding the cost of CFC-free alternatives, stating, ''Considering the availability of programs providing low-cost or free prescription drugs that would allow low-income, elderly, and uninsured individuals to purchase alternative MDIs, and the availability of physician samples, we believe that patients will be adequately served by alternative MDIs'' (73 FR 69532).

A second commenter supported the proposed rule but believes that the US Government should take actions to limit the amount of CFCs needed for use in MDIs in the future. The commenter believes that the U.S. Government should set up procedures or guidelines to encourage MDI manufacturers to develop CFC-free MDIs. The commenter also asked whether the global laboratory and analytical use exemption would extend to the future use of MDIs.

EPA notes that the transition to ozone-safe alternatives is well underway and that, for example, the allocation of essential use allowances for CFC-based MDIs significantly decreased from over 3,000 MT in 2000 to 63.0 MT in 2009. In this action, EPA is only allocating essential use allowances to one manufacturer of CFC–MDIs.

FDA has found the use of ODSs to be essential in a limited number of medical products, including certain metered dose inhalers for the treatment of asthma and chronic obstructive pulmonary disease (see 21 CFR 2.125(e)(1) and (e)(2)). When a specific medical product meets the criteria for removal of the essential use designation, FDA initiates rulemakings that remove the essential use designations for MDIs in a manner that is protective of public health. Specifically, FDA published a final rule in 2008 that removes the essential use designation for epinephrine used in MDIs as of December 31, 2011 (73 FR 69532). Further, FDA published a proposed rule in 2007 that proposes removing the essential use designations for flunisolide, triamcinolone, metaproterenol, pirbuterol, albuterol and ipratropium in combination, cromolyn, and nedocromil used in MDIs as of December 31, 2009 (72 FR 32030).

With respect to the comment that EPA should encourage MDI manufacturers to develop CFC-free MDIs, EPA agrees that companies that apply for essential use allocations should demonstrate ongoing research and development of alternatives to CFC MDIs. Decision VIII/10, taken in 1997, provides for applicants to submit information on the status of research and development into alternatives, and Decision XIX/13, taken in September 2007, provides for applicants to submit related information describing their progress in transitioning to CFC-free formulations. Since 1997, EPA has requested that applicants provide this information with their applications for CFC essential use nominations. The MDI manufacturer that is receiving an essential use allocation has submitted information to EPA pertaining to its research and development efforts.

Finally, the global laboratory and analytical exemption allows the continued production and import of small amounts of class I ODSs for use in essential laboratory and analytical methods. At the 19th Meeting of the Parties in September 2007, the Parties agreed to extend the global laboratory and analytical use exemption through December 31, 2011, in Decision XIX/18. The use of CFCs in MDIs is not a laboratory or analytical use. Therefore, the use of CFCs in MDIs would not qualify under the global laboratory and analytical use exemption.

IV. Allocation of Essential Use Allowances for Calendar Year 2009

With this action, EPA is allocating essential use allowances for calendar year 2009 to the entity listed in Table 1. These allowances are for the production or import of the specified quantity of Class I controlled substances solely for the specified essential use.

TABLE I—ESSENTIAL USE ALLOWANCES FOR CALENDAR YEAR 2009

Company	Chemical	2009 quantity (metric tons)
(i) Metered Dose Inhalers (for oral inhalation) for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
Armstrong	CFC–11 or CFC–12 or CFC–114	63.0

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

EPA prepared an analysis of the potential costs and benefits related to this action. This analysis is contained in the Agency's Regulatory Impact Analysis (RIA) for the entire Title VI phaseout program (U.S. Environmental Protection Agency, ''Regulatory Impact Analysis: Compliance with Section 604 of the Clean Air Act for the Phaseout of Ozone Depleting Chemicals,'' July 1992). A copy of the analysis is available in the docket for this action and the analysis is briefly summarized here. The RIA examined the projected economic costs of a complete phaseout of consumption of ozone-depleting substances, as well as the projected benefits of phased reductions in total emissions of CFCs and other ozone-depleting substances, including essential use CFCs used for MDIs.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The recordkeeping and reporting requirements included in this action are already included in an existing information collection burden and this action does not make any changes that would affect the burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements

contained in the existing regulations at 40 CFR 82.8(a) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0170. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 impact of today's rule on small entities, small entity is defined as: (1) A small business that is primarily engaged in pharmaceutical preparations manufacturing as defined by NAICS code 325412 with less than 750 employees; (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 today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action will provide an otherwise unavailable benefit to those companies that are receiving essential use allowances by creating an exemption to the regulatory phaseout of chlorofluorocarbons. We have therefore concluded that today's rule will relieve regulatory burden for all small entities. EPA solicited comments on the potential impact of the proposed rule on small entities. EPA did not receive comments related to the potential impact of the proposed rule on small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. This action is deregulatory and does not impose any new requirements on any entities. Therefore, this action is not subject to the requirements of sections 202 and 205 of UMRA. This action 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 because this rule merely allocates essential use exemptions to entities as an exemption to the ban on production and import of Class I ODSs.

E. Executive Order 13132: Federalism

Executive Order 13132, titled ''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 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. 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). This action does not have tribal implications because it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to this action. EPA solicited comment on the proposed rule from tribal officials. EPA did not receive any comments from tribal officials on the proposed rule.

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

EPA interprets EO 13045 as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to EO 13045 because it implements Section 604(d)(2) of the Clean Air Act which states that the Agency shall authorize essential use exemptions should the Food and Drug Administration determine that such exemptions are necessary.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule does not have any adverse energy effects because it merely allocates essential use allowances to entities manufacturing metered dose inhalers as an exemption to the ban on production and import of Class I ODSs.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards 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. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 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 concluded that it is not practicable to determine whether there would be disproportionately high and adverse human health or environmental effects on minority and/or low income populations from this rule. EPA believes, however, that this action affects the level of environmental protection equally for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. Any ozone depletion that results from this rule will impact all affected populations equally, because ozone depletion is a global environmental problem with environmental and human effects that are, in general, equally distributed across geographical regions.

K. Congressional Review Act

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. Therefore, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 24, 2009.

VI. Effective Date of This Final Rule

Section 553(d) of the Administrative Procedures Act (APA) generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. This final rule is issued under section 307(d) of the CAA, which does not include a 30-day effective-date period requirement, and which precludes the application of section 553(d). CAA section 307(d)(1) (''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies.'') EPA is making this final rule effective June 24, 2009, and believes that this is consistent with the policies underlying APA section 553(d). Specifically, APA section 553(d) provides an exception for any action that grants or recognizes an exemption or relieves a restriction. Because this action grants an exemption to the phaseout of production and consumption of CFCs, EPA is making this action effective immediately to ensure continued availability of CFCs for medical devices.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Imports, Methyl Chloroform, Ozone, Reporting and recordkeeping requirements.

Dated: June 18, 2009.

Lisa P. Jackson,

Administrator.

■ 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601,7671–7671q.

Subpart A—Production and Consumption Controls

■ 2. Section 82.8 is amended by revising table I in paragraph (a) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

(a) * * *

TABLE I—ESSENTIAL USE ALLOWANCES FOR CALENDAR YEAR 2009

Company	Chemical	2009 quantity (metric tons)
(i) Metered Dose Inhalers (for oral inhalation) for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
Armstrong	CFC–11 or CFC–12 or CFC–114	63.0

* * * * *

[FR Doc. E9–14862 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 161

[EPA–HQ–OPP–2004–0387; FRL–8418–5]

Data Requirements for Antimicrobial Pesticides; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is issuing this technical amendment to clarify that the data requirements for pesticide registration in 40 CFR part 161 are applicable only to antimicrobial pesticides.

DATES: This technical amendment is effective June 24, 2009.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2004–0387. All documents in the docket are listed in the docket index available in *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday,

excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Field and External Affairs Division, (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: (703) 305–6304; e-mail address: *boyle.kathryn @epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Does this Technical Amendment Do?

In the **Federal Register** of October 24, 2007 (72 FR 60251) (FRL–8116–2), EPA issued a Final Rule which, among other things, redesignated 40 CFR part 158 as 40 CFR part 161. The regulations in redesignated part 161 were intended to apply to, and are applicable only to antimicrobial pesticides as was shown in the redesignation table. This technical amendment is issued to clarify the applicability of part 161, clear up any confusion among the users of the regulations in 40 CFR parts 158 and 161, and to correct the part heading for part 161 to show applicability to antimicrobial pesticides. The data requirements for conventional, biochemical, and microbial pesticides are set forth in 40 CFR part 158.

III. Why is this Tehnical Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical amendment final without prior proposal and opportunity for comment, because EPA is not making any substantive changes to the regulations and is merely clarifying the applicability of existing regulations to avoid confusion. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

The appropriate statutory and Executive Order reviews were included in the October 24, 2007 Final Rule.

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 161

Environmental protection, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 12, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 161 is amended as follows:

PART 161—[AMENDED]

■ 1. The authority citation for part 161 continues to read as follows:

Authority: 7 U.S.C. 136—136y.

■ 2. Revise the heading for part 161 to read as follows:

PART 161—DATA REQUIREMENTS FOR REGISTRATION OF ANTIMICROBIAL PESTICIDES

[FR Doc. E9–14620 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0386; FRL–8421–2]

Triallate; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of triallate and its metabolite TCPSA in or on bermudagrass, hay under 40 CFR 180.314(a). Gowan Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0386. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural

producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0386 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2008–0386 one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of June 13, 2008 (73 FR 33817) (FRL–8367–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7334) by the Gowan Company, 370 South Main St., Yuma, AZ 85364. The petition requested that 40 CFR 180.314 be amended by establishing tolerances for residues of the herbicide triallate, (S-2,3,4-trichloroallyl diisopropylthiocarbamate), in or on Bermudagrass hay at 0.2 parts per million (ppm). That notice referenced a summary of the petition prepared by Gowan Company, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

The Gowan Company has requested an amendment to a Section 3 registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to register a new use on Bermuda grass for grass grown for seed or hay. The petitioner has requested a tolerance for Bermuda grass, hay to support registration of the new use. This petition was filed in conjunction with Gowan's requested amendment to its FIFRA registration.

Based upon review of the data supporting the petition, EPA has determined that the correct commodity name and numerical value for the tolerance proposed in this petition is Bermudagrass, hay at 0.3 ppm. EPA has also assigned the proposed tolerance in this petition to paragraph 40 CFR 180.314(a), is correcting the tolerance expression to read: ''Tolerances are established for residues of the herbicide (S-2,3,4-trichloroallyl diisopropylthiocarbamate) and its metabolite 2,3,3-trichloroprop-2-enesulfonic acid (TCPSA) in or on the following food commodity Bermudagrass, hay at 0.3 ppm.'' The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of triallate and its metabolite TCPSA in/on bermudagrass, hay at 0.3 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Triallate has a low order of acute toxicity via oral, dermal, and inhalation routes. Triallate is neurotoxic in rats

based on the acute neurotoxicity study, the subchronic neurotoxicity study, the rat multi-generation reproduction study, and the developmental neurotoxicity study. In subchronic studies in rats, the major target organ appears to be the kidney. Following chronic exposure, systemic toxicity in dogs is limited to an increase in liver weight in both sexes, increases in serum alkaline phosphatase in both sexes, and increases in hemosiderm in the spleen. Toxicity in mice included increased absolute liver weight, increased incidence of altered foci of the liver and hematopoiesis in the spleen. In rats, systemic toxicity was manifested as decreased survival in both sexes, decreased body weight and increased adrenal weight in males. In high dose males from the chronic toxicity/carcinogenicity study, the only treatment-related finding at interim sacrifice was linear papillary mineralization. The only treatment-related effect noted in male Syrian hamsters was decreased serum triglycerides.

There was no increased susceptibility to the offspring of rats following *in utero* exposure in the prenatal developmental toxicity study in rats, the 2-generation reproduction study in rats, or the developmental neurotoxicity study in rats. However, there is evidence of increased susceptibility in the prenatal developmental toxicity study in rabbits. Triallate has been classified as a possible human carcinogen based on hepatocelluar carcinomas in male mice, with a positive trend and borderline significance in female mice and increased incidence of renal tubular cell adenomas in rats. A linear low-dose approach is used to quantify cancer risk to humans. The existing toxicological data for triallate do not show any significant effects on immunological organs or functions.

The Agency has determined that only triallate and its metabolite TCPSA should be regulated and assessed for dietary exposure in plant commodities. The Agency decided to regulate on the TCPSA metabolite because it is present at more than 10% of the total radioactive residue (TRR) in the plant metabolism studies, and in the absence of toxicological data for this metabolite, the same toxicity as the parent compound, triallate is assumed.

Specific information on the studies received and the nature of the adverse effects caused by triallate and its metabolite TCPSA as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Triallate: Risk Assessment for Proposed New Use of Triallate as Pre-Emergence Herbicide for Bermuda grass, Case # 824883*, pages 32–42 in docket ID number EPA–HQ–OPP–2008–0386 identified as document EPA–HQ–OPP–2008–0386–0003.

B. Toxicological Endpoints

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

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

A summary of the toxicological endpoints for triallate and TCPSA used for human risk assessment can be found at *http://www.regulations.gov* in document *Triallate: Risk Assessment for Proposed New Use of Triallate as Pre-Emergence Herbicide for Bermuda grass, Case # 824883*, pages 32–42 in docket ID number EPA–HQ–OPP–2008–0386 identified as document EPA–HQ–OPP–2008–0386–0003.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to triallate and its metabolite TCPSA, EPA considered exposure under the petitioned-for tolerances as well as all existing triallate tolerances in 40 CFR 180.314. EPA assessed dietary exposures from triallate and TCPSA in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) insert 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used field trial data, empirical processing factors and 100 percent crop treated (PCT) for all commodities. Anticipated residues (AR) were used. All commodities with the exception of succulent peas were blended commodities; therefore, average field trial values were used for these commodities. The acute AR for succulent peas is the highest field trial residue. PCT data were not used.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA insert 1994–1996 and 1998 CSFII. As to residue levels in food, EPA used field trial data, empirical processing factors and 100 PCT for all commodities. AR were used. All commodities with the exception of succulent peas were blended commodities; therefore, average field trial values were used for these commodities. The chronic AR for succulent peas is the average field trial residue. PCT data were not used.

iii. *Cancer*. To assess cancer risk, EPA used the same assessment as for chronic exposure.

iv. *Anticipated residue information*. Section 08(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the

levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

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

Based on the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of triallate and TCPSA for acute exposures are estimated to be 9.45 parts per billion (ppb) for surface water and 0.21 ppb for ground water.

The estimated EDWCs of triallate and TCPSA for chronic exposures for non-cancer assessments are estimated to be 1.26 ppb for surface water and 0.21 ppb for ground water.

The estimated EDWCs of triallate and TCPSA for chronic exposures for cancer assessments are estimated to be 1.26 ppb for surface water and 0.21 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

For acute dietary risk assessment, the water concentration value of 9.45 ppb was used to assess the contribution to drinking water.

For chronic dietary risk assessment, the water concentration of value 1.26 ppb was used to assess the contribution to drinking water.

For cancer dietary risk assessment, the water concentration of value 1.26 ppb was used to assess the contribution to drinking water.

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

Triallate and its metabolite TCPSA are not registered for any specific use patterns that would result in residential exposure.

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

EPA found in 2001 that although studies suggest that the thiocarbamate pesticides (including triallate) share a common metabolic profile and a common toxic effect (neuropathology of the sciatic nerve), insufficient information exists to establish a common mechanism of toxicity for this effect. For the purposes of this tolerance action, therefore, EPA has assumed that triallate does not have a common mechanism of toxicity with other substances. For more information regarding the common mechanism determination for triallate and the other thiocarbamate pesticides see *http://www.epa.gov/oppsrrd/cumulative/thiocarbamate.pdf*.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. A Degree of Concern analysis was performed for triallate and TCPSA because the rabbit developmental study provided evidence of increased susceptibility in the fetus. The purpose of the Degree of Concern analysis was:

i. To determine the level of concern for the effects observed when considered in the context of all available toxicity data; and

ii. Identify any residual uncertainties after establishing toxicity endpoints and traditional uncertainty factors to be used in the risk assessment.

In the case of triallate and TCPSA, there was no increased susceptibility to the offspring of rats following *in utero* exposure in the prenatal developmental toxicity study in rats, in the 2–generation reproduction study in rats, or in the developmental neurotoxicity study in rats. However there was evidence of increased susceptibility in the prenatal developmental toxicity study in rabbits. Fetal effects include decreased body weight and increased skeletal variations at 15 mg/kg/day. However, the rabbit developmental study identified a NOAEL of 5 mg/kg/day for fetal effects, and this NOAEL was selected as the point of departure for the acute dietary risk assessment. The point of departure for chronic dietary exposure (2.5 mg/kg/day) is lower than the NOAEL for fetal effects (observed at 15 mg/kg/day) and is protective of this endpoint, thus there are no residual concerns.

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

i. The toxicity database for triallate and its metabolite is adequate for addressing the sensitivity of infant and children to triallate exposure. The toxicity database for triallate is complete with the exception of an immunotoxicity study. The existing subchronic and chronic studies did not indicate that the immune system will be affected by triallate based on hematology, lymphoid organ weights, and histopathology measurements. The effects seen in the chronic study in dogs and the chronic toxicity study in mice in the spleen are related to hematology, but not related to immunotoxicity—they're just manifested in the spleen as well as in other organs. They do not increase concern for immunotoxicity in any way. Thus, the residual concerns for immunotoxicity are low.

ii. No quantitative or qualitative increased susceptibility was demonstrated in the fetuses in the prenatal developmental study in rats following *in utero* exposure, in the offspring in the developmental neurotoxicity study in rats, as well as in the offspring in the 2–generational reproduction study in rats following *in utero* and/or postnatal exposure to triallate.

iii. Although there was some increased susceptibility in the rabbit developmental toxicity study (where the developmental NOAEL of 5 mg/kg/day was lower than the maternal NOAEL of 15 mg/kg/day), the dose response for this effect has been adequately characterized (see discussion in Unit III.D.2) and the fetal NOAEL was selected as a point of departure for the acute dietary risk assessment. The point

of departure for the chronic dietary assessment (2.5 mg/kg/day) is lower than the NOAEL for fetal effects (observed at 15 mg/kg/day). Thus, these assessments are protective of potential adverse effects.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT, and reliable data from field trial studies and food processing studies. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to triallate and TCPSA in drinking water. There are no residential uses for triallate, therefore no residential exposure is expected from the use of triallate. These assessments will not underestimate the exposure and risks posed by triallate and its metabolite TCPSA.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to triallate and TCPSA will occupy <1% of the aPAD for (all infants <1 year old), the population group receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to triallate and TCPSA from food and water will utilize <1% of the cPAD for (all infants <1 year old) the population group receiving the greatest exposure. There are no residential uses for triallate and TCPSA.

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

Triallate and its metabolite TCPSA are not registered for any use patterns that would result in residential exposure. Therefore, the short-term aggregate risk is the sum of the risk from exposure to triallate and TCPSA through food and water and will not be greater than the chronic aggregate risk.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus average exposure to food and water (considered to be a background exposure level).

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

5. *Aggregate cancer risk for U.S. population*. Using the exposure assumptions described in this unit for cancer exposure, EPA has determined that the estimated dietary exposure for the general U.S. population corresponded to a cancer risk of 3×10^{-7} for food and drinking water, which is less than the range of 1 in 1 million (1×10^{-6}), the EPA level of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Two analytical methods are available for enforcement of tolerances. They include the current PAM VOL. II method (gas chromatography with electron capture detection (GC/ECD) designated as method A and another GC/ECD method (designated as Method RES-099-96, Version 2) which may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no Canadian, Mexican or Codex MRLs established for triallate and its metabolite TCPSA for Bermudagrass, hay, the tolerance established by this rule. Therefore, there are no issues regarding compatibility with respect to the tolerance established for bermudagrass, hay in this rule.

C. Revisions to Petitioned-For Tolerances

Based on residue trial data submitted to the Agency, EPA determined that the proposed tolerance of 0.2 ppm for Bermudagrass, hay was to low. The residue trail data support the establishment of a tolerance of 0.3 ppm on Bermudagrass, hay expressed in the terms of triallate and its metabolite TCPSA.

V. Conclusion

Therefore, tolerances are established for residues of triallate, S-2,3,4-trichloroallyl diisopropylthiocarbamate and its metabolite 2,3,3-trichloroprop-2-enesulfonic acid (TCPSA), in or on the following food commodity: Bermudagrass, hay at 0.3 ppm.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power

and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 12, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Paragraph (a) of §180.314 is revised to read as follows:

§180.314 Triallate; tolerances for residues.

(a) *General*. Tolerances are established for residues of triallate, S-2,3,4-trichloroallyl diisopropylthiocarbamate and its metabolite 2,3,3-trichloroprop-2-enesulfonic acid (TCPSA) in or on the following food commodity:

Commodity	Parts per million
Bermudagrass, hay	0.3

* * * * *

[FR Doc. E9–14869 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0007; FRL–8417–5]

Glyphosate; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation increases the tolerance for residues of glyphosate in or on cotton, gin byproducts. Cheminova, Inc requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0007. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation

and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0007 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2009–0007, by one of the following methods:

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

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

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

II. Petition for Tolerance

In the **Federal Register** of March 25, 2009 (74 FR 12857) (FRL–8399–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7451) by Cheminova, One Park Drive, Research Triangle Park, NC 27707. The petition requested that 40 CFR 180.364 be amended by establishing tolerances for residues of the herbicide glyphosate, *N*-(phosphonomethyl)glycine, resulting from the application of glyphosate, the isoproplyamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate in or on cotton, gin byproducts at 210 parts per million (ppm). That notice referenced a summary of the petition prepared by Cheminova. Inc, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Cheminova, Inc has requested a Section 3 registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for application of glyphosate to glyphosate tolerant cotton including Bayer GHB614 cotton (GlyTol cotton), a genetically modified cotton being commercialized by Bayer Crop Science. As a result, the petitioner has requested that the current tolerance for cotton, gin byproducts be increased to 210 ppm. This petition was filed in conjunction with Cheminova's requested change to its FIFRA registration.

Based upon review of the data supporting the petition, EPA has determined that the proposed tolerance in this petition should remain in 40CFR180.364 (a)(1) which reads: Tolerances are established for residues of the herbicide glyphosate, *N*-(phosphonomethyl)glycine, resulting from the application of glyphosate, the isoproplyamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on the following food commodities. The proposed numerical value for the proposed tolerance on cotton, gin byproducts remains 210 ppm.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of glyphosate on cotton, gin by products at 210 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by glyphosate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the rule making document referenced in this unit. A summary of the toxicological endpoints and current risk assessments for glyphosate can be found in the same rule making document.

In amending the glyphosate cotton, gin byproducts tolerance, EPA relies on the risk assessment and safety finding made in the final rule published in the **Federal Register** of December 20, 2006 (71 FR 73586) (FRL–8385–7) which established tolerances for residues of glyphosate in or on noni at 0.20 ppm and various other commodities. For the reasons explained in this unit, increasing the cotton, gin byproducts tolerance to 210 ppm does not change the human exposure and risk to glyphosate as set forth in that 2006 rulemaking. Accordingly, EPA herein adopts the safety findings in that rulemaking.

Increasing the current glyphosate tolerance for cotton, gin byproducts to 210 ppm does not result in changes in the exposure or risk estimates reported in the previous risk assessments for the reasons listed in this unit and discussed in the Agency review entitled Glyphosate Label Amendment to Permit Application of Glyphosate to Bayer's Glyphosate-Tolerant Cotton GHB614., available at *www.regulations.gov* in Docket ID number EPA–HQ–OPP–2009–0007 and identified as EPA–HQ–OPP–2009–0007–0002.

1. Glyphosate is currently registered for application to cotton genetically modified to express the Agrobacterium EPSPS gene. Available information indicate that Bayer GHB614 cotton (GlyTol Cotton) has been genetically modified to produce the 2mEPSPS protein which is not inhibited by glyphosate. The 2mEPSPS gene was generated by introducing mutations into the wild maize gene. The 2mEPSPs protein differs from the wild maize EPSPS protein by two amino acids. Based on the current metabolism data and because tolerance to glyphosate in GHB614 cotton is conferred via modification of an endogenous plant EPSPS gene so that the plant is no longer sensitive (i.e. tolerance is not conveyed via metabolism of the herbicide), the Agency concludes that previous conclusions concerning the residues of concern for tolerance expression and risk assessment are applicable to GHB614 cotton (i.e. the residues of concern for tolerance expression and risk assessment are glyphosate *per se*).

2. The numerical value of all but one feed tolerance will remain the same.

3. The most recent dietary analysis assumed tolerance level residues and 100% crop treated.

4. The estimate of glyphosate levels in drinking water is based on a glyphosate use involving direct application to water at 3.75 pounds active ingredient per acre. The proposed use pattern is the same as the currently registered use pattern on glyphosate tolerant cotton. Use of glyphosate on GlyTol Cotton will not result in higher levels in drinking water.

5. Previously calculated dietary burden to beef and dairy cattle were based on alfalfa hay (400 ppm tolerance) being the significant contributor to the diet. Because cotton, gin byproducts constitute a minor feed commodity (5% of the beef cattle and not feed to dairy cattle), the Agency concludes that the increase in cotton, gin byproducts tolerance to 210 ppm will not significantly affect the magnitude of the residue in livestock. Therefore, no increase in currently established livestock tolerances is necessary.

6. Previously calculated dietary burden to poultry were based on alfalfa meal (400 ppm). The previously calculated dietary burden to hog was based on alfalfa meal and barley grain (20 ppm). The numerical values for these commodities remain unchanged. Cotton, gin byproducts are not feed to poultry and hog. Therefore, the Agency concludes that the increase in the cotton, gin byproducts tolerance to 210 ppm will not significantly affect the magnitude of the residue in poultry or hog, and no increases in tolerance for these commodities are necessary.

Therefore, based on the risk assessments discussed in the notices referenced above, EPA concludes that no harm will result to the general population or to infants and children from aggregate exposure to glyphosate residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

There are no Codex MRLs for glyphosate on cotton, gin byproducts. MRLs are not set for cotton, gin byproduct, as it is not considered a major item in international trade. No Canadian or Mexican MRLs exist for glyphosate on cotton, gin byproducts.

C. Response to Comments

One comment was received from a private citizen objecting to the establishment of tolerances. The Agency has received similar comments from this commenter on numerous previous occasions. Refer to the **Federal Register** of March 14, 2007 (72 FR 11784; FRL–8117–2) for the Agency response to these objections.

V. Conclusion

Therefore, tolerances are established for residues of glyphosate, *N*-(phosphonomethyl)glycine, resulting from the application of glyphosate, the isoproplyamine salt of glyphosate, the ethanolamine salt of glyphosate, the dimethylamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate on cotton, gin byproducts at 210 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.364 is amended by revising the following entry in the table in paragraph (a)(1) to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * *	* *
Cotton, gin byproducts ...	210
* * *	* *

* * * * *

[FR Doc. E9–14594 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0384; FRL–8417–8]

Acetochlor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation modifies tolerances for residues of acetochlor and its metabolites in or on the commodities corn, field, forage; corn, field, stover; and corn, pop, stover. The modifications are detailed in Unit II. of this document. Monsanto Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0384. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0384 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2008–0384 by one of the following methods:

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

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

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

II. Petition for Tolerance

In the **Federal Register** of June 13, 2008 (73 FR 33814) (FRL–8367-3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F7306) by Monsanto Company (a member of the Acetochlor Registration Partnership (ARP), 1300 I St., NW., Suite 450 East, Washington, DC 20005. The petition requested that 40 CFR 180.470 be amended by establishing tolerances for the herbicide acetochlor, (2-chloro-2'-methyl-6'-ethyl-N-ethoxymethylacetanilide) and its metabolites containing either the 2-ethyl-6-methylniline (EMA) or the 2-(1-hydroxyethyl-6-methyl-aniline (HEMA) moiety, to be expressed as acetochlor in or on the food commodities when present therein as a result of the application of acetochlor to growing crops: Corn, field, forage at 4.5 parts per million (ppm) and corn, field, stover at 3.0 ppm. That notice referenced a summary of the petition prepared by Monsanto Company, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Monsanto Company has requested an amendment to its registration for acetochlor under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which would modify the use pattern for post-emergence application by allowing application of acetochlor to corn up to 30 inches in height. Current products are registered for post-emergence application up to 11 inches in height. The petitioner is requesting that tolerances be increased to support this use pattern.

Based upon review of the data supporting the petition, EPA has determined that the proposed tolerances in this petition should remain in § 180.470 (a) which reads: ''Tolerances are established for residues of acetochlor; 2-chloro-2'-methyl-6-ethyl-N-ethoxymethylacetanilide, and its metabolites containing the ethyl methyl aniline (EMA) and the hydroxyethyl methyl aniline (HEMA) moiety, to be analyzed as acetochlor and expressed as acetochlor equivalents, in or on the following raw agricultural commodities.'' Also, the Agency has determined that available data support tolerances of 2.5 ppm for corn, field, stover, and that the current tolerance for corn, pop, stover must be increased to 2.5 ppm. The proposed numerical value for the tolerance on corn, field, forage remains at 4.5 ppm. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of acetochlor on corn, field, forage at 2.5 ppm, corn, field, stover at 2.5 ppm, and corn, pop, stover at 2.5 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by acetochlor as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document entitled ''Acetochlor- RED Phase 2 Revised HED Chapter of the TRED'' and is available in docket ID number EPA–HQ–OPP–2005–0227 identified as document 0004.

B. Toxicological Endpoints

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

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete

description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for acetochlor used for human risk assessment can be found at *http://www.regulations.gov* in document ''Acetochlor: Human Health Risk Assessment to Support the Proposed Uses on Sorghum and Sweet Corn and Rotational Crops of Nongrass Animal Feeds (Group 18), Sugar Beets, Dried Shelled Beans and Peas (Subgroup 6C), Sunflowers, Potatoes, Cereal Grains (Group 15), and Forage, Fodder, and Straw of Cereal Grains (Group 16),'' page 11 in Docket ID number EPA–HQ–OPP–2006–0203.

C. Exposure Assessment

The increased tolerances proposed in this rule do not result in changes in the exposures or risk assessments reported in the previous risk assessments or in the final rule published in the **Federal Register** of May 16, 2007 (72 FR 27463) (FRL–8126–2). The changed use pattern and increased tolerances are only applicable to animal feed commodities and not human food. Currently, the available data show that acetochlor residues in animal feed are unlikely to result in finite amounts of acetochlor in animal commodities for human consumption. This will not change with the changed use pattern and increase in tolerance levels. EPA has calculated the maximum theoretical dietary burden for livestock based on the increased tolerances and compared those with the results from livestock feeding studies with acetochlor-impregnated feed. That comparison showed that finite residues in animal commodities for human consumption remain unlikely. The data supporting this conclusion are set forth in the Agency review entitled ''Acetochlor. Petition for Increased Tolerances for Field Corn Forage and Stover to Support Amended Use on Field Corn, Summary of Analytical Chemistry and Residue Data,'' available at *www.regulations.gov* in Docket ID number EPA–HQ–OPP–2008–0384 and identified as document EPA–HQ–OPP–2008–0384–0003. Further, the changed use pattern for acetochlor will not result in higher estimated levels in drinking water because other registered acetochlor uses on corn allow greater application amounts.

Accordingly, based on the risk assessments, and findings made in May 16, 2007 final rule for acetochor, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to acetochlor residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate high performance liquid chromatography with oxidative coulometric electrochemical detector (HPLC/OCED) method is available for enforcement of tolerances for acetochlor and its metabolites in plant commodities including corn, field, forage; corn, field, stover, and corn, pop, stover. This method is listed as Method I for plants in PAM Vol. II.

B. International Residue Limits

There are no Codex or Canadian Maximum Residue Levels (MRLs) established for acetochlor on agricultural Commodities. A Mexican MRL is established for residues of acetochlor *per se*, as ''acetochlor'' in/on corn (maize) at 0.04 ppm. The acetochlor tolerances EPA is establishing in this action differ from the tolerance expression for the Mexican MRL, because of the inclusion of the EMA and HEMA metabolites in the tolerance expression. At this time harmonization between the U.S. tolerances and Mexican MRL can not be achieved because of the inclusion of the EMA and HEMA metabolites in the EPA tolerance expression are necessary to support use patterns in the United States.

C. Response to Comments

One commenter submitted a comment stating a general opposition to all genetically engineered foods. This comment is non-responsive to the proposed action in that Monsanto petitioned for modification of a tolerance for pesticide residues and not approval of a genetically engineered food.

D. Revisions to Petitioned-For Tolerances

The tolerance spreadsheet in the Agency's Guidance for Setting Tolerances Based on Field Trial Data was utilized in determining appropriate tolerance levels for field corn forage and stover. The available data supports the proposed tolerance for field corn forage at 4.5 ppm, but indicates that the proposed tolerance for field corn stover of 3.0 ppm is too high. The data support a tolerance of 2.5 ppm for field corn stover. The Agency previously concluded that field corn trial data would support tolerances on pop corn; therefore, the available field trial data will also support a tolerance of 2.5 ppm for pop corn stover. Therefore, EPA is revising these tolerances to agree with levels the field trial data support.

V. Conclusion

Therefore, tolerances are established for residues of acetochlor; 2-chloro-2'-methyl-6-ethyl-N-ethoxymethylacetanilide, and its metabolites containing the ethyl methyl aniline (EMA) and the hydroxyethyl methyl aniline (HEMA) moiety, to be analyzed as acetochlor and expressed as acetochlor equivalents, in or on corn, field, forage at 4.5 ppm; corn, field, stover at 2.5 ppm; and corn, pop, stover at 2.5 ppm.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of

power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.470 is amended by revising the following entries in the table in paragraph (a) to read as follows:

§ 180.470 Acetochlor; tolerances for residues.

(a) * * *

Commodity	Parts per million
Corn, field, forage	4.5
* * *	* *
Corn, field, stover	2.5
* * *	* *
Corn, pop, stover	2.5
* * *	* *

* * * * *

[FR Doc. E9–14581 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008-0856; FRL–8418–8]

Starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, minimum number average molecular weight (in amu) 10,000, (CAS Reg. No. 204142–80–3) when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. Kemira Chemicals, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, on food or feed commodities.

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0856. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Deirdre Sunderland, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0851; e-mail address: *sunderland.deirdre@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0856. in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0856, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 13, 2009 (74 FR 16866) (FRL–8396–6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 8E7453) filed by Kemira Chemicals, Inc., 1950 Vaughn Rd., Kennesaw, GA 30144. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, minimum number average molecular weight (in amu) 10,000, (CAS Reg. No. 204142–80–3). That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency received one comment. One comment was received from a private citizen who opposed the authorization to sell any pesticide that leaves a residue on food.

The Agency understands the commenter's concerns and recognizes that some individuals believe that no residue of pesticides should be allowed. However, under the existing legal framework provided by section 408 of the FFDCA, EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute.

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

III. Risk Assessment and Statutory Findings

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

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.
2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.
3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).
4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.
5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.
6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e)

7. The polymer's number average MW of 10,000 dalton is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, is 10,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' For the purposes of this tolerance action, EPA has not assumed that starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene.

VIII. Other Considerations

A. Endocrine Disruptor

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

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

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

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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

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

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * *	* *
Starch, oxidized, polymers with Bu acrylate, tert-Bu acrylate and styrene, minimum number average molecular weight (in amu), 10,000.	204142–80–3
* * *	* *

[FR Doc. E9–14702 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0861; FRL–8420–9]

Oxirane, 2-methyl-, Polymer with Oxirane; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of Oxirane, 2-methyl-, polymer with oxirane, CAS Reg. No. 9003–11–6; when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of Oxirane, 2-methyl-, polymer with oxirane on food or feed commodities.

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0861. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Lisa Austin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7894; e-mail address: *austin.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0861 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0861, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 13, 2009 (74 FR 16870) (FRL–8396–6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 8E7469) filed by BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of Oxirane, 2-methyl-, polymer with oxirane; CAS Reg. No. 9003–11–6. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

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

III. Risk Assessment and Statutory Findings

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

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Oxirane, 2-methyl-, polymer with oxirane conforms to the definition of a polymer given in 40 CFR 723.250(b)

and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 1,100 daltons is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, Oxirane, 2-methyl-, polymer with oxirane meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to Oxirane, 2-methyl-, polymer with oxirane.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that Oxirane, 2-methyl-, polymer with oxirane could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of Oxirane, 2-methyl-, polymer with oxirane is 1,100 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since Oxirane, 2-methyl-, polymer with oxirane conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' For the purposes of this tolerance action, EPA has not assumed that Oxirane, 2-methyl-, polymer with oxirane has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of Oxirane, 2-methyl-, polymer with oxirane, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of Oxirane, 2-methyl-, polymer with oxirane.

VIII. Other Considerations

A. Endocrine Disruptors

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

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, Oxirane, 2-methyl-, polymer with oxirane may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

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

C. Existing Tolerances

Oxirane, 2-methyl-, polymer with oxirane has an existing exemption from the requirement of a tolerance under 40 CFR 180.940 for use in antimicrobial formulations for food contact surface sanitizing.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for Oxirane, 2-methyl-, polymer with oxirane nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of Oxirane, 2-methyl-, polymer with oxirane from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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

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

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * *	*
Oxirane, 2-methyl-, polymer with oxirane, minimum number average molecular weight (in amu), 1,100	9003–11–6
* * * *	*

[FR Doc. E9–14615 Filed 6–23–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0047; FRL–8418–4]

2-Propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide (CAS Reg. No. 33438–19–6) when used as an inert ingredient in a pesticide chemical formulation. Rohm and Haas Chemicals LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide on food or feed commodities.

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0047. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0047 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2009–0047, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 8, 2009 (74 FR 15971) (FRL–8407–4), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 8E7490) filed by Rohm and Haas Chemicals LLC, 100 Independence Mall West, Philadelphia, PA 19106–2399. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide (CAS Reg. No. 33438–19–6). That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

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

III. Risk Assessment and Statutory Findings

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

exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-Propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 30,000 daltons is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide is 30,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' For the purposes of this tolerance action, EPA has not assumed that 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide.

VIII. Other Considerations

A. Endocrine Disruptors

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

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

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

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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

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

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In § 180.960, the table is amended by adding alphabetically the following polymer to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

Polymer	CAS No.
* * *	* *
2-Propenoic acid, butyl ester, polymer with ethyl 2-propenoate and N-(hydroxymethyl)-2-propenamide, minimum number average molecular weight (in amu), 30,000.	33438–19–6
* * *	* *

[FR Doc. E9–14622 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008-0851; FRL–8418–7]

2-Butenedioic acid (2Z)-, monobutyl ester, Polymer with methoxyethene, sodium salt; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, minimum number average molecular weight of (in amu) 18,200 (CAS Reg. No. 205193–99–3) when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. Steptoe & Johnson, LLP, on behalf of, International Specialty Products submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-Butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, on food or feed commodities.

DATES: This regulation is effective June 24, 2009. Objections and requests for hearings must be received on or before August 24, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0851. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Deirdre Sunderland, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0851; e-mail address: *sunderland.deirdre@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0851 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 24, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0851, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 13, 2009 (74 FR 16866) (FRL–8396–6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 8E7457) filed by International Specialty Products, c/o Steptoe & Johnson, LLP, 1330 Connecticut Ave., NW, Washington, DC 20036. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, minimum number average molecular weight of (in amu) 18,200, (CAS No. 205193–99–3). That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's

request. The Agency received one comment. One comment was received from a private citizen who opposed the authorization to sell any pesticide that leaves a residue on food.

The Agency understands the commenter's concerns and recognizes that some individuals believe that no residue of pesticides should be allowed. However, under the existing legal framework provided by section 408 of the FFDCA EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute.

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

III. Risk Assessment and Statutory Findings

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

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-Butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.
2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.
3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).
4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.
5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.
6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 18,200 dalton is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, is 18,200 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' For the purposes of this tolerance action, EPA has not assumed that 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt.

VIII. Other Considerations

A. Endocrine Disruptor

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

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

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

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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

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

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * *	* *
2-butenedioic acid (2Z)-, monobutyl ester, polymer with methoxyethene, sodium salt, minimum number average molecular weight (in amu), 18,200.	205193–99–3
* * *	* *

[FR Doc. E9–14596 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2008–0252; FRL–8417–6]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 23 chemical substances which were the subject of premanufacture notices (PMNs). Four of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. This action requires persons who intend to manufacture, import, or process any of these 23 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: The effective date of this rule is August 24, 2009 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before July 24, 2009. This rule shall be promulgated for purposes of judicial review at 1 p.m. (e.s.t.) on July 8, 2009.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before July 24, 2009, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30–day period for public comment.

Additionally, significant new use designations for a chemical substance are legally established as of the date of publication of this direct final rule June 24, 2009. See the discussion in Unit VII. for more specific details.

Further, for persons intending to import or export any of the chemical substances in this rule, they are subject to the TSCA section 13 import certification requirements and the export notification provisions of TSCA section 12(b) as of July 24, 2009. See the discussion in Unit I.A. and Unit II.C. for more specific details.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0252, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0252. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0252. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, 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 docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT

Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Tracey Klosterman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–2209; e-mail address: *klosterman.tracey@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this rule. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., Chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28 (the corresponding EPA policy appears at 40 CFR part 707, subpart B). Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after July 24, 2009 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

B. What is the Agency's Authority for Taking this Action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements,

exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Chemical importers are subject to the TSCA section 13 (15 U.S.C. 1612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28 (the corresponding EPA policy appears at 40 CFR part 707, subpart B). Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemical substances subject to a proposed or final SNUR must certify their compliance with the SNUR requirements. In addition, any persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2612 (b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 23 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the above four factors listed in TSCA section 5(a)(2).

IV. Substances Subject to this Rule

EPA is establishing significant new use and recordkeeping requirements for 23 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- CAS number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) consent order or, for non-section 5(e) SNURs, the basis for the SNUR (i.e., SNURs without TSCA section 5(e) consent orders).
- Toxicity concerns.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of this rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (i.e. limits on manufacture and importation) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes 4 PMN substances that are subject to ''risk-based'' consent orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called ''5(e) SNURs'' on these PMN substances are promulgated pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The 5(e) SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders.

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) consent order for the same chemical substance.

This rule also includes SNURs on 19 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, for a variety of reasons, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). EPA, however, does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a ''significant new use.'' These so-called ''non-5(e) SNURs'' are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a ''significant new use'' in all non-5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, ''(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may

be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified'' for the PMN substance.

PMN Number P–05–1

Chemical name: Formaldehyde, polymer with dialkylphenylamine, dialkylphenol and trimethylhexanediamine (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a curing agent for epoxy coating systems. Based on test data on analogous phenols, aliphatic amines, and benzyl amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 4 parts per billion (ppb) of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS 835.3110 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, fresh water daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)) would help characterize the environmental effects of the PMN substance. All aquatic toxicity testing should be performed using the static method with nominal concentrations at a pH of 7. Further, a certificate of analysis should be provided for the test substance.

CFR citation: 40 CFR 721.10134.

PMN Number P–05–11

Chemical name: Phosphinic acid, P,P-diethyl-, zinc salt (2:1).

CAS number: 284685–45–6.

Basis for action: The PMN states that the substance will be used as a flame retardant for polyamide thermoplastic epoxy resins. Based on test data on the PMN substance and analogous zinc salts, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 12 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 12 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 12 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)) with rainbow trout and a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)) would help characterize the environmental effects of the PMN substance. Further, a certificate of analysis should be provided for the test substance.

CFR citation: 40 CFR 721.10135.

PMN Number P–05–177

Chemical name: 2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester, reaction products with hexakis(alkoxyalkyl)melamine (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a base resin in UV/EB curable and peroxide curable formulations. Based on test data on analogous methacrylates and esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 100 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a Zahn-Wellens/EMPA test (OPPTS 835.3200 test guideline); a fish acute toxicity test, freshwater and marine (OPPT 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)) would help characterize the environmental effects of the PMN substance. Fish and daphnia testing should be performed using the flow-through method with measured concentrations. Algal testing should be performed using the static method with measured concentrations. Further, a certificate of analysis should be provided for the test substance.

CFR citation: 40 CFR 721.10136.

PMN Number P–05–329

Chemical name: Halogenated phenoxy aromatic (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a fungicide intermediate. EPA identified health and environmental concerns because the substance may be a persistent, bioaccumulative, and toxic (PBT) chemical, based on physical/chemical properties of the PMN substance, as described in the New Chemicals Program's PBT Category (64 FR 60194; November 4, 1999) (FRL–6097–7). EPA estimates that the PMN substance will persist in the environment more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. Also, based on test data on analogous neutral organic substances, EPA predicts toxicity to aquatic organisms. As described in the PMN, significant worker exposure is unlikely and the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any predictable or purposeful release containing the PMN substance into the waters of the United States may cause serious health effects and significant environmental effects, since the PMN substance has been characterized by EPA as a PBT. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii), (b)(4)(ii), and (b)(4)(iii).

Recommended testing: EPA has determined that the results of a subset of the tiered testing described in the New Chemicals Program's PBT Category would help characterize the PBT attributes of the PMN substance. EPA has determined that a ready biodegradability test (OPPTS 835.3110 test guideline); a fish bioconcentration factor test (OPPTS 850.1730 test guideline (public draft)); and a combined repeated dose study with the reproductive/developmental toxicity screening test (OPPTS 870.3650 or Organisation for Economic Co-operation and Development (OECD) 422 test guidelines) would help characterize the human health and environmental effects of the PMN substance. Further, a certificate of analysis should be provided for the test substance.

CFR citation: 40 CFR 721.10137.

PMN Number P–05–336
Chemical name: 3-Isoxazolecarboxylic acid, 4,5-dihydro-5,5-diphenyl-, ethyl ester.

CAS number: 163520–33–0.
Basis for action: The PMN states that the substance will be used as an herbicide safener in formulated pesticide products. Based on test data on the PMN substance submitted under TSCA section 8(e), the substance may cause liver, kidney, heart and spleen toxicity. Also, based on information submitted in the PMN Material Safety Data Sheet (MSDS), EPA has concerns for dermal sensitization. In addition, based on test data on the PMN substance and analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, significant worker exposure is not expected. Further, general population exposure is not expected as the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, and use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(4)(i), and (b)(4)(ii).
Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)) with rainbow trout and a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)) would help characterize the environmental effects of the PMN substance. Further, a certificate of analysis should be provided for the test substance. No human health testing is recommended at this time.
CFR citation: 40 CFR 721.10138.

PMN Number P–05–776
Chemical name: Ethanone, 1-(1-chlorocyclopropyl)-.
CAS number: 63141–09–3.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an intermediate. Based on test data on the PMN substance, EPA has concerns for acute toxicity, strong solvent (defatting) irritation, and dermal sensitization. Also, based on test data on analogous chloroalkanes, EPA has concerns for potential mutagenicity. In addition, based on test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 500 ppb of the PMN substance in surface waters. As described in the PMN, significant worker exposure is unlikely due to the use of adequate personal protective equipment. Significant general population exposure is not expected to result from the identified environmental releases from the proposed manufacturing, processing, or use of the substance. Further, significant environmental exposure is unlikely as the substance is not released to surface waters resulting in stream concentrations that exceed 500 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as an intermediate or any use of the substance resulting in surface water concentrations exceeding 500 ppb may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(3)(ii), and (b)(4)(i).
Recommended testing: EPA has determined that the results of a porous pot test (OPPTS 835.3220 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); a mammalian erythrocyte micronucleus test (OPPTS 870.5395 test guideline) by the intraperitoneal route; and a repeated dose 28–day oral toxicity study in rodents (OPPTS 870.3050 test guideline) would help characterize the human health and environmental effects of the PMN substance. Fish and daphnia testing should be performed using the flow-through method with measured concentrations. Algal testing should be performed using the static method with measured concentrations. Further, a certificate of analysis should be provided for the test substance.
CFR citation: 40 CFR 721.10139.

PMN Number P–06–33
Chemical name: Phosphoric acid, tin (2+) salt (2:3).
CAS number: 15578–32–2.
Basis for action: The PMN states that the substance will be used as a pigment in plastic compounds for laser marking and laser welding. Based on test data on the PMN substance and on analogous respirable, poorly soluble particulates, EPA has identified concerns that the PMN substance may cause lung overload, immunotoxicity, and reproductive toxicity. Also, based on test data on the PMN substance and analogous inorganic phosphates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 10 ppb of the PMN substance in surface waters. As described in the PMN, significant worker exposure is unlikely due to the use of adequate personal protective equipment. Further, environmental exposure is unlikely, as the substance is not released to surface waters. Therefore, EPA has not determined that the proposed import, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that domestic manufacture or any use of the substance resulting in release to surface waters may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(3)(ii), (b)(4)(i), and (b)(4)(ii).
Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); and a reproduction/developmental toxicity screening test (OPPTS 870.3550 test guideline) would help characterize the human health and environmental effects of the PMN substance. Further, a certificate of analysis should be provided for the test substance.
CFR citation: 40 CFR 721.10140.

PMN Number P–06–163
Chemical name: Oils, ginger, zingiber purpureum.

CAS number: 864662–46–4.
Basis for action: The PMN states that the substance will be used in fragrance compositions in cosmetic products, air fresheners, household cleaners, dishwashing detergents, and laundry detergents. Based on test data on analogous methyl eugenol, EPA identified concerns that the PMN substance may cause cancer. As described in the PMN, significant worker dermal exposure is unlikely due to the use of adequate dermal protection. Although there is potential for consumer exposure, significant dermal and inhalation exposures are not expected. Therefore, EPA has not determined that the proposed import, processing, or use of the substance may present an unreasonable risk. EPA has

determined, however, that domestic manufacture or use of the substance without the use of impervious gloves, where there is a potential for potential worker dermal exposure, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that the results of an in vitro mammalian erythrocyte micronucleus test (OPPTS 870.5395 test guideline); a salmonella typhimurium reverse mutation assay (OPPTS.870.5265 test guideline); and a carcinogenicity test (OPPTS 870.4200 test guideline) would help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.10141.

PMN Number P–06–199
Chemical name: Oxabicycloalkane carboxylic acid alkanediyl ester (generic).

CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a monomer. Based on test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 7 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)) with freshwater fish and a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)) would help characterize the environmental effects of the PMN substance. Further, a certificate of analysis should be provided for the test substance.
CFR citation: 40 CFR 721.10142.

PMN Number P–06–733
Chemical name: Amines, bis (C11-14-branched and linear alkyl).
CAS number: 900169–60–0.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate. EPA identified health and environmental concerns because the substance may be a PBT chemical, based on physical/chemical properties of the PMN substance, as described in the New Chemicals Program's PBT Category (64 FR 60194; November 4, 1999). EPA estimates that the PMN substance will persist in the environment more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. Also, based on test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms. As described in the PMN, significant worker exposure is unlikely and the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any predictable or purposeful release of the PMN substance into the waters of the United States may cause serious health effects and significant environmental effects, since the PMN substance has been characterized by EPA as a PBT. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii), (b)(4)(ii), and (b)(4)(iii).
Recommended testing: EPA has determined that the results of the tiered testing described in the New Chemicals Program's PBT Category would help characterize the PBT attributes of the PMN substance. The neutralized substance should be used for all human health testing. Further, a certificate of analysis should be provided for the test substance.
CFR citation: 40 CFR 721.10143.

PMN Number P–06–805
Chemical name: Modified thiocarbamate (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a mining chemical reagent. Based on test data on a structurally similar substance, EPA identified human health concerns for toxicity to liver, thymus, spleen, kidney, and red blood cells from exposure via drinking water and fish ingestion resulting from releases to surface and ground water. Further, based on test data on the PMN substance and analogous imides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 70 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface and ground waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii), (b)(4)(i), and (b)(4)(ii).
Recommended testing: EPA has determined that the results of a bacterial reverse mutation test (OPPTS 870.5100 test guideline); a mammalian erythrocyte micronucleus test (OPPTS 870.5395 test guideline) by the intraperitoneal route; a repeated dose 28–day oral toxicity in rodents (OPPTS 870.3050 test guideline); an acute oral toxicity (OPPTS 870.1100 test guideline); a fish early life-stage toxicity test (OPPTS 850.1400 test guideline (public draft)); a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)); and either a ready biodegradability test (OPPTS 835.3110 test guideline) or a sealed vessel carbon dioxide production test (OPPTS 835.3120 test guideline) would help characterize the human health and environmental effects of the PMN substance. Fish and daphnid testing should be performed using the flow-through method with measured concentrations. Further, a certificate of analysis should be provided for the test substance.
CFR citation: 40 CFR 721.10144.

PMN Number P–06–816
Chemical name: Modified reaction products of alkyl alcohol, halogenated alkane, substituted epoxide, and amino compound (generic).
CAS number: Not available.
Effective date of TSCA section 5(e) consent order: May 25, 2007.
Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the PMN substance will be as a hydrophobic surface active agent for cellulosic substrates and similar materials. The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) and (e)(1)(A)(ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment and human health, the substance may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance and its potential degradation products. To protect against this exposure and risk, the consent order requires that the PMN substance be tested, before a certain production volume is reached, in various fate and physical/chemical tests to determine its fate and composition in various media and conditions in the environment. In addition, for the fluorinated portion of the polymer, the submitter has agreed to

analyze, report, and limit specific fluorinated impurities of the PMN substance where the carbon chain meets or exceeds a specified length, if these values exceed those reported in the PMN. The SNUR designates as a ''significant new use'' the absence of these protective measures.

Toxicity concern: EPA has concerns for potential incineration or other decomposition products of the PMN substance. These perfluorinated products may be released to the environment from incomplete incineration of the PMN substance at low temperatures. EPA has preliminary evidence, including data on some fluorinated polymers that suggests that, under some conditions, the PMN substance could degrade in the environment. EPA has concerns that these degradation products will persist (P) in the environment, could bioaccumulate (B) or biomagnify, and could be toxic (T) to people, wild mammals, and birds, based on data on analog chemicals, including perfluorooctanoic acid (PFOA) and other perfluorinated alkyls, including the presumed environmental degradation product. There is pharmacokinetic and toxicological data in animals on PFOA, as well as epidemiological and blood monitoring data in humans. Toxicity studies on PFOA indicate developmental, reproductive, and systemic toxicity in various species. Cancer may also be of concern. These factors, taken together, raise concerns for potential adverse chronic effects in humans and wildlife. There is also limited pharmacokinetic data and toxicological data in animals on other perfluoroalkyls, including the presumed degradation product and precursors. These data indicate a different and less toxic profile for the presumed degradation product and precursors. EPA expects that additional animal data will be developed under various consent orders that have the expected common degradation product or analog information.

Recommended testing: EPA has determined that the results of certain fate and physical/chemical property tests would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests. The consent order contains one production volume limit. The PMN submitter has agreed not to exceed the production volume limit without performing the following studies: A modified semi-continuous activated sludge (SCAS) test for insoluble and volatile chemicals (OPPTS 835.5045 or OECD 302A test guidelines), with analysis for degradation products; a UV visible light absorption test (OPPTS 830.7050 or OECD 101 test guidelines); a direct photolysis rate in water by sunlight test (OPPTS 835.2210 test guideline), if wavelengths greater than 290 nanometers (nm) are absorbed in the previous test; an indirect photolysis screening test (OPPTS 835.5270 test guideline); a phototransformation of chemicals on soil surfaces test (Draft OECD guideline January 2002) using two soils; an anaerobic biodegradability of organic compounds in digested sludge test (OECD 311 test guideline); an aerobic and anaerobic transformation in aquatic sediment systems test (OECD 308 test guideline); and an aerobic sewage treatment simulation test (OECD 303A test guideline).

CFR citation: 40 CFR 721.10145.

PMN Number P–07–87

Chemical name: Partially fluorinated condensation polymer (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: August 10, 2007.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the PMN substance will be as an open, non-dispersive carpet treatment. The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) and (e)(1)(A)(ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment and human health, the substance may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance and its potential degradation products. To protect against this exposure and risk, the consent order requires that the PMN substance be tested, before certain production volumes are reached, in various fate and physical/chemical tests to determine its fate and composition in various media and conditions in the environment. The order also limits the concentration of the PMN substance in products sold to non-industrial users or distributors to non-industrial users that could spray apply the substance (after further dilution). Also, the consent order forbids the sale of the PMN substance to consumers in a spray application formulation. In addition, for the fluorinated portion of the polymer, the submitter has agreed to analyze, report, and limit specific fluorinated impurities of the PMN substance where the carbon chain meets or exceeds a specified length. The SNUR designates as a ''significant new use'' the absence of these protective measures.

Toxicity concern: EPA has concerns for potential incineration or other decomposition products of the PMN substance. These perfluorinated products may be released to the environment from incomplete incineration of the PMN substance at low temperatures. EPA has preliminary evidence, including data on some fluorinated polymers that suggests that, under some conditions, the PMN substance could degrade in the environment. EPA has concerns that these degradation products will persist (P) in the environment, could bioaccumulate (B) or biomagnify, and could be toxic (T) to people, wild mammals, and birds, based on data on analog chemicals, including PFOA and other perfluorinated alkyls, including the presumed environmental degradant. There is pharmacokinetic and toxicological data in animals on PFOA, as well as epidemiological and blood monitoring data in humans. Toxicity studies on PFOA indicate developmental, reproductive, and systemic toxicity in various species. Cancer may also be of concern. These factors, taken together, raise concerns for potential adverse chronic effects in humans and wildlife. There is also limited pharmacokinetic data and toxicological data in animals on other perfluoroalkyls, including the presumed degradant and precursors. These data indicate a different and less toxic profile for the presumed degradant and precursors. EPA expects that additional animal data will be developed under various consent orders that have the expected common degradant or analog information. EPA also has concerns that the PMN substance, under some conditions of use—particularly non-industrial, commercial, or consumer use—could cause lung effects, based on limited data on some perfluorinated compounds and an acute inhalation study on a related polymer.

Recommended testing: EPA has determined that the results of certain fate and physical/chemical property tests would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limits without performing these tests. The consent order contains three production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the following studies: A modified SCAS test for insoluble and volatile chemicals (OPPTS 835.5045 or OECD 302A test guidelines), with analysis for degradation products; a UV visible light

absorption test (OPPTS 830.7050 or OECD 101 test guidelines); a direct photolysis rate in water by sunlight test (OPPTS 835.2210 test guideline), if wavelengths greater than 290 nm are absorbed in the previous test; an indirect photolysis screening test (OPPTS 835.5270 test guideline); a hydrolysis as a function of pH and temperature test (OPPTS 835.2130 test guideline); an aerobic and anaerobic transformation in soil test (OECD 307 test guideline); and an anaerobic biodegradability of organic compounds in digested sludge test (OECD 311 test guideline). The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the following tests: A phototransformation of chemicals on soil surfaces test (Draft OECD guideline January 2002) using two soils; an aerobic sewage treatment simulation test (OECD 303A test guideline); and an aerobic and anaerobic transformation in aquatic sediment systems test (OECD 308 test guideline). Finally, the PMN submitter has also agreed not to exceed the highest production volume limit without performing an aerobic and anaerobic transformation in soil test (OECD 307 test guideline).

CFR citation: 40 CFR 721.10146.

PMN Number P–07–198

Chemical name: Acrylate derivative of alkoxysilylalkane ester and mixed metal oxides (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a film coating additive. Based on test data on analogous respirable, poorly soluble particulates, EPA has concerns for lung effects for the PMN substance. Based on physical properties, EPA has concerns for potential systemic effects from dermal exposure to the PMN substance. As described in the PMN, worker inhalation exposure to particulates is not expected and dermal exposure is minimal due to the use of adequate dermal protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of impervious gloves where there is a potential for dermal exposure; use of the substance other than as described in the PMN; or manufacture, processing, or use of the substance in a powder form, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10147.

PMN Number P–07–330

Chemical name: Acryloxy alkanoic alkane derivative with mixed metal oxides (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a film coating additive. Based on test data on analogous respirable, poorly soluble particulates, EPA has concerns for lung effects for the PMN substance. Based on physical properties, EPA has concerns for potential systemic effects from dermal exposure to the PMN substance. As described in the PMN, worker inhalation exposure to particulates is not expected and dermal exposure is minimal due to the use of adequate dermal protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of impervious gloves where there is a potential for dermal exposure; use of the substance other than as described in the PMN; or manufacture, processing, or use of the substance in a powder form, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10148.

PMN Numbers P–07–0522 and P–07–523

Chemical names: (P–07–522) Carbon black, (3-methylphenyl)-modified, substituted (generic) and (P–07–523) Carbon black, (4-methylphenyl)-modified, substituted (generic).

CAS numbers: Not available.

Basis for action: The consolidated PMN states that the generic (non-confidential) use of the substances will be as colorant process intermediates. Based on test data on analogous respirable, poorly soluble particulates, EPA has concerns for lung effects for the PMN substances. Based on physical properties, EPA has concerns for potential systemic effects from dermal exposure to the PMN substances. As described in the PMN, worker inhalation exposure to particulates is not expected and dermal exposure is minimal due to the use of adequate dermal protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that use of the substances without the use of impervious gloves where there is a potential for dermal exposure; use of the substances other than as described in the PMN; or manufacture, processing, or use of the substances in a powder form, may cause serious health effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) with a post-observation period of up to 3 months would help characterize the human health effects of the PMN substances. Evaluations should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, and a cytotoxic effects and histopathology of pulmonary tissues in addition to the standard requirements in the test guideline.

CFR citations: 40 CFR 721.10149 (P–07–522) and 40 CFR 721.10150 (P–07–523).

PMN Number P–07–642

Chemical name: Modified styrene, divinylbenzene polymer (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a cleaning and polishing chemical for semiconductor manufacturing. Based on test data on analogous respirable, poorly soluble particulates, EPA has concerns for lung effects for the PMN substance. Based on physical properties, EPA has concerns for potential systemic effects from dermal exposure to the PMN substance. As described in the PMN, worker inhalation exposure to particulates is not expected and dermal exposure is minimal due to the use of adequate dermal protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of impervious gloves where there is a potential for dermal exposure; use of the substance other than as described in the PMN; or manufacture, processing, or use of the substance in a powder form, may cause serious health effects. Based on

this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) with a post-observation period of up to 3 months would help characterize the human health effects of the PMN substance. Evaluations should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, and a cytotoxic effects and histopathology of pulmonary tissues, in addition to the standard requirements in the test guideline.
CFR citation: 40 CFR 721.10151.

PMN Number P–07–674
Chemical name: Oxirane, substituted silylmethyl-, hydrolysis products with alkanol zirconium(4+) salt and silica, acetates (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a protective coating. Based on test data on analogous respirable, poorly soluble particulates, EPA believes that the PMN substance may cause lung effects. Based on physical properties, EPA believes that the PMN substance may cause systemic effects via dermal exposure. As described in the PMN, significant worker exposure is unlikely due to use in an enclosed process with adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of impervious gloves where there is a potential for dermal exposure; use of the substance in non-enclosed processes during spray application; use other than as described in the PMN; or manufacture, processing, or use of the substance in a powder form, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) with the addition of a post-exposure observation period of up to 3 months, and a glove permeation test (American Society for Testing and Materials (ASTM) F739 and F1194–99 test guidelines) would help characterize the human health effects of the PMN substance. Evaluations for the inhalation study should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, and a cytotoxic effects and histopathology of pulmonary tissues, in addition to the standard requirements in the test guideline.
CFR citation: 40 CFR 721.10152.

PMN Number P–08–6
Chemical name: Modified methyl methacrylate, 2-hydroxyethyl methacrylate polymer (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a resin for coatings. Based on test data on analogous respirable, poorly soluble particulates, EPA believes that the PMN substance might cause lung effects. Based on physical properties, EPA believes that the PMN substance may cause systemic effects via dermal exposure. As described in the PMN, worker inhalation exposure to particulates is not expected and dermal exposure is minimal due to the use of adequate dermal protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of impervious gloves where there is a potential for dermal exposure; use of the substance other than as described in the PMN; or manufacture, processing, or use of the substance in a powder form, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) with the addition of a post-exposure observation period of up to 3 months, and a glove permeation test (ASTM F739 and F1194–99 test guidelines) would help characterize the human health effects of the PMN substance. Evaluations for the inhalation study should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, and a cytotoxic effects and histopathology of pulmonary tissues, in addition to the standard requirements in the test guideline.
CFR citation: 40 CFR 721.10153.

PMN Number P–08–157
Chemical name: Quaternary ammonium compounds, dicoco alkyldimethyl, chlorides, reaction products with silica.
CAS number: 956147–76–5.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as raw material for the manufacture of release coatings. Based on test data on analogous respirable, poorly soluble particulates, EPA believes that the PMN substance may cause lung effects. Based on physical properties of the PMN substance, EPA believes that it may cause systemic effects via dermal exposure. As described in the PMN, worker inhalation exposure to particulates is not expected and dermal exposure is minimal due to the use of adequate dermal protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of impervious gloves where there is a potential for dermal exposure; use of the substance other than as described in the PMN; or manufacture, processing, or use of the substance in a powder form, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90–day inhalation toxicity test (OPPTS 870.3465 test guideline) with the addition of a post-exposure observation period of up to 3 months, and a glove permeation test (ASTM F739 and F1194–99 test guidelines) would help characterize the human health effects of the PMN substance. Evaluations for the inhalation toxicity study should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, and a cytotoxic effects and histopathology of pulmonary tissues, in addition to the standard requirements in the test guideline. For the glove permeation testing, gloves should be exposed to the expected conditions of exposure, including the likely combinations of chemical substances to which the gloves may be exposed to in the work area. Results should be recorded as a cumulative permeation rate as a function of time, and shall be documented in accordance with ASTM F739 using the format specified in ASTM F1194–99 ''Guide for Documenting Results of Chemical Permeation Testing on Protective Clothing Materials'' or its equivalent.
CFR citation: 40 CFR 721.10154.

PMN Number P–08–177
Chemical name: Multi-walled carbon nanotubes (generic).
CAS number: Not available.
Effective date of TSCA section 5(e) consent order: August 11, 2008.
Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance

will be as a property modifier in electronic applications and as a property modifier in polymer composites. The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA. Based on test data on analogous respirable, poorly soluble particulates and on other carbon nanotubes (CNTs), EPA believes that the PMN substance might cause lung effects. To protect against this risk, the consent order requires use of a National Institute for Occupational Safety and Health (NIOSH)-approved full-face respirator with N-100 cartridges. Based on physical properties of the PMN substance, EPA believes it may cause health effects via dermal exposure. To protect against this risk, the consent order requires that workers wear gloves and protective clothing impervious to the chemical substance. The SNUR designates as a ''significant new use'' the absence of these protective measures.

Toxicity concern: There is a concern for lung health effects based on data for poorly soluble particulates and for other CNTs, and for lung irritation based on particle size.
Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity study in rats with a post exposure observation period of up to 3 months, including bronchoalveolar lavage fluid (BALF) analysis (OPPTS 870.3465 or OECD 413 test guidelines) and certain material characterization data, would help characterize possible effects of the PMN substance. In the consent order, the PMN submitter has agreed not to exceed a specified production volume or production time limit (whichever comes first) without performing these tests.
CFR citation: 40 CFR 721.10155.

PMN Number P–08–328

Chemical name: Single-walled carbon nanotubes (generic).
CAS number: Not available.
Effective date of TSCA section 5(e) consent order: September 15, 2008.
Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as a property modifier in electronic applications and as a property modifier in polymer composites. The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA. Based on test data on analogous respirable, poorly soluble particulates and on other carbon nanotubes (CNTs), EPA believes that the PMN substance might cause health effects. To protect against this risk, the consent order requires use of a NIOSH-approved full-face respirator with N-100 cartridges. Based on physical properties of the PMN substance, EPA believes it may cause health effects via dermal exposure. To protect against this risk, the consent order requires that workers wear gloves and protective clothing impervious to the chemical substance. The SNUR designates as a ''significant new use'' the absence of these protective measures.
Toxicity concern: There is a concern for health effects based on data for poorly soluble particulates and for other CNTs and for lung irritation based on particle size.
Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity study in rats with a post exposure observation period of up to 3 months, including bronchoalveolar lavage fluid (BALF) analysis (OPPTS 870.3465 or OECD 413 test guidelines) and certain material characterization data, would help characterize possible effects of the PMN substance. In the consent order, the PMN submitter has agreed not to exceed a specified production volume or production time limit (whichever comes first) without performing these tests.
CFR citation: 40 CFR 721.10156.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for 4 of the 23 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders. These SNURs are promulgated pursuant to § 721.160.

In the other 19 cases, where the proposed uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.
- EPA will ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/newchems/pubs/invntory.htm*.

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3) and § 721.170(d)(4). In accordance with § 721.160(c)(3)(ii) and § 721.170(d)(4)(i)(B), this rule is effective August 24, 2009 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before July 24, 2009.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before July 24, 2009, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30–day period for public comment.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment. EPA solicits comments on

whether any of the uses described as significant new uses are ongoing.

VII. Applicability of Rule to Uses Occurring Before Effective Date of the Rule

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. TSCA section 5(e) consent orders have been issued for 4 chemical substances and the PMN submitters are prohibited by the TSCA section 5(e) consent orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For chemical substances for which an NOC has not been submitted at this time, EPA concludes that the uses are not ongoing. However, EPA recognizes that prior to the effective date of the rule, when chemical substances identified in this SNUR are added to the TSCA Inventory, other persons may engage in a significant new use as defined in this rule before the effective date of the rule. However, 16 of the 23 chemical substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions (per § 720.25 and § 721.11), the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

As discussed in the **Federal Register** of April 24, 1990, EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of this direct final rule rather than as of the effective date of the rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became effective, and then argue that the use was ongoing before the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the chemical substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires (see Unit III.).

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person meets the conditions of advance compliance under § 721.45(h), the person is considered exempt from the requirements of the SNUR.

VIII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN, except where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)). Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. lists those tests. Unit IV. also lists recommended testing for non-5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Many test guidelines are now available on the Internet at *http://www.epa.gov/opptsfrs/home/guidelin.htm*. The OECD test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org*. The ASTM test guidelines are available at *http://www.astm.org/Standard/index.shtml*.

In the TSCA section 5(e) consent orders for several of the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier TSCA section 5(e) consent orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) consent orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture/import or processing.

The recommended tests may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This rule cross-references § 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the chemical substance subject to a SNUR is CBI. This procedure is cross-referenced in each SNUR that includes specific significant new uses that are CBI.

Under these procedures a manufacturer, importer, or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer, importer, or processor must show that it has a *bona fide* intent to manufacture, import, or process the chemical substance and must identify the specific use for which it intends to

manufacture, import, or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture, import, or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers, importers, and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, i.e., the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture, import, or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

As stated in Unit II.C., according to § 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be mailed to the Environmental Protection Agency, OPPT Document Control Office (7407M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Information must be submitted in the form and manner set forth in EPA Form No. 7710–25. This form is available from the Environmental Assistance Division (7408M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (see § 721.25 and § 720.40). Forms and information are also available electronically at *http://www.epa.gov/opptintr/newchems/pubs/pmnforms.htm*.

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the public docket.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This final rule establishes SNURs for several new chemical substances that were the subject of PMNs, or TSCA section 5(e) consent orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of these SNURs will not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 1,000 SNURs, the Agency receives on average only 5 notices per year. Of those SNUNs submitted from 2006–2008, only one appears to be from a small entity. In addition, the estimated reporting cost for submission of a SNUN (see Unit XI.) is minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impacts of complying with these SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this rule. As such, EPA has determined that this rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (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.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 11, 2009.

Barbara A. Cunningham,

Acting Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. By adding new § 721.10134 to subpart E to read as follows:

§ 721.10134 Formaldehyde, polymer with dialkylphenylamine, dialkylphenol and trimethylhexanediamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as formaldehyde, polymer with dialkylphenylamine, dialkylphenol and trimethylhexanediamine (PMN P–05–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 3. By adding new § 721.10135 to subpart E to read as follows:

§ 721.10135 Phosphinic acid, P,P-diethyl-, zinc salt (2:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phosphinic acid, P,P-diethyl-, zinc salt (2:1) (PMN P–05–11; CAS No. 284685–45–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=12).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 4. By adding new § 721.10136 to subpart E to read as follows:

§ 721.10136 2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester, reaction products with hexakis(alkoxyalkyl)melamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, reaction products with hexakis(alkoxyalkyl)melamine (PMN P–05–177) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

■ 5. By adding new § 721.10137 to subpart E to read as follows:

§ 721.10137 Halogenated phenoxy aromatic (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as halogenated phenoxy aromatic (PMN P–05–329) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. By adding new § 721.10138 to subpart E to read as follows:

§ 721.10138 3-Isoxazolecarboxylic acid, 4,5-dihydro-5,5-diphenyl-, ethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 3-isoxazolecarboxylic acid, 4,5-dihydro-5,5-diphenyl-, ethyl ester (PMN P–05–336; CAS No. 163520–33–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. By adding new § 721.10139 to subpart E to read as follows:

§ 721.10139 Ethanone, 1-(1-chlorocyclopropyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanone, 1-(1-chlorocyclopropyl)- (PMN P–05–776; CAS No. 63141–09–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=500).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. By adding new § 721.10140 to subpart E to read as follows:

§ 721.10140 Phosphoric acid, tin (2+) salt (2:3).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phosphoric acid, tin (2+) salt (2:3) (PMN P–06–33, CAS No. 15578–32–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) *Release to water.* Requirements as specified in § 721.90 (b)(1) and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. By adding new § 721.10141 to subpart E to read as follows:

§ 721.10141 Oils, ginger, zingiber purpureum.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oils, ginger, zingiber purpureum (PMN P–06–163; CAS No. 864662–46–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. By adding new § 721.10142 to subpart E to read as follows:

§ 721.10142 Oxabicycloalkane carboxylic acid alkanediyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as oxabicycloalkane carboxylic acid alkanediyl ester (PMN P–06–199) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. By adding new § 721.10143 to subpart E to read as follows:

§ 721.10143 Amines, bis (C11-14-branched and linear alkyl).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as amines, bis (C11-14-branched and linear alkyl) (PMN P–06–733; CAS No. 900169–60–0) is subject to reporting

under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 12. By adding new § 721.10144 to subpart E to read as follows:

§ 721.10144 Modified thiocarbamate (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as modified thiocarbamate (PMN P–06–805) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 13. By adding new § 721.10145 to subpart E to read as follows:

§ 721.10145 Modified reaction products of alkyl alcohol, halogenated alkane, substituted epoxide, and amino compound (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as modified reaction products of alkyl alcohol, halogenated alkane, substituted epoxide, and amino compound (PMN P–06–816) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(k) (analysis and reporting and limitations of maximum impurity levels of certain fluorinated impurities) and (q).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 14. By adding new § 721.10146 to subpart E to read as follows:

§ 721.10146 Partially fluorinated condensation polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as partially fluorinated condensation polymer (PMN P–07–87) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(k) (analysis and reporting and limitations of maximum impurity levels of certain fluorinated impurities), (l) (maximum percentage of the PMN substance in a non-industrial product or distributed for use as a non-industrial product), (o) (use in a consumer product that could be spray applied), and (q).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 15. By adding new § 721.10147 to subpart E to read as follows:

§ 721.10147 Acrylate derivative of alkoxysilylalkane ester and mixed metal oxides (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as acrylate derivative of alkoxysilylalkane ester and mixed metal oxides (PMN P–07–198) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 16. By adding new § 721.10148 to subpart E to read as follows:

§ 721.10148 Acryloxy alkanoic alkane derivative with mixed metal oxides (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as acryloxy alkanoic alkane derivative with mixed metal oxides (PMN P–07–330) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 17. By adding new § 721.10149 to subpart E to read as follows:

§ 721.10149 Carbon black, (3-methylphenyl)-modified, substituted (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as carbon black, (3-methylphenyl)-modified, substituted (PMN P–07–522) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 18. By adding new § 721.10150 to subpart E to read as follows:

§ 721.10150 Carbon black, (4-methylphenyl)-modified, substituted (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as carbon black, (4-methylphenyl)-modified, substituted (PMN P–07–523) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 19. By adding new § 721.10151 to subpart E to read as follows:

§ 721.10151 Modified styrene, divinylbenzene polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as modified styrene, divinylbenzene polymer (PMN P–07–642) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 20. By adding new § 721.10152 to subpart E to read as follows:

§ 721.10152 Oxirane, substituted silylmethyl-, hydrolysis products with alkanol zirconium(4+) salt and silica, acetates (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as oxirane, substituted silylmethyl-, hydrolysis products with alkanol zirconium(4+) salt and silica, acetates (PMN P–07–674) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (a), (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 21. By adding new § 721.10153 to subpart E to read as follows:

§ 721.10153 Modified methyl methacrylate, 2-hydroxyethyl methacrylate polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as modified methyl methacrylate, 2-hydroxyethyl methacrylate polymer (PMN P–08–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 22. By adding new § 721.10154 to subpart E to read as follows:

§ 721.10154 Quaternary ammonium compounds, dicoco alkyldimethyl, chlorides, reaction products with silica.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as quaternary ammonium compounds, dicoco alkyldimethyl, chlorides, reaction products with silica (PMN P–08–157; CAS No. 956147–76–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 23. By adding new § 721.10155 to subpart E to read as follows:

§ 721.10155 Multi-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as multi-walled carbon nanotubes (PMN P–08–177) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(5) (National Institute for Occupational Safety and Health (NIOSH)-approved air-purifying, tight-fitting full-face respirator equipped with N100 filters), (a)(6)(i), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (j) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 24. By adding new § 721.10156 to subpart E to read as follows:

§ 721.10156 Single-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as single-walled carbon nanotubes (PMN P–08–328) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(5) (National Institute for Occupational Safety and Health (NIOSH)-approved air-purifying, tight-fitting full-face respirator equipped with N100 filters), (a)(6)(i), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (j) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

[FR Doc. E9–14780 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

Significant New Uses of Chemical Substances

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 700 to 789, revised as of July 1, 2008, on page 431, after the source note for § 721.8940 and before paragraph (a), reinstate the heading for § 721.8950 to read as follows:

§ 721.8950 Chromate(3-), bis[3-[[6-amino-1,4-dihydro-2-[[[4-[(2-hydroxy-1-naphthalenyl)azo] phenyl]sulfonyl]amino]-4-(oxo-.kappa.O)-5-pyrimidinyl]azo-.kappaN1]-4-hydroxy-.kappa.O)-5-nitrobenzenesulfonato(3-)]-, sodium triethanolamine salts.

[FR Doc. E9–14993 Filed 6–23–09; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–1242; MB Docket No. 08–226; RM–11494].

Radio Broadcasting Services; Mount Enterprise, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of JER Licenses, LLC, substitutes Channel 279A for vacant FM Channel 231A at Mount Enterprise, Texas. Channel 279A can be allotted at Mount Enterprise, Texas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.9 km (3.7 miles) north of Mount Enterprise at the following reference coordinates: 31–58–15 North Latitude and 94–41–01 West Longitude.

DATES: Effective July 20, 2009.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–226, adopted June 3, 2009, and released June 5, 2009. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com.*

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 231A and by adding Channel 279A at Mount Enterprise.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E9–14843 Filed 6–23–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2009–0061]

RIN 2127–AK47

Federal Motor Vehicle Theft Prevention Standard; Final Listing of 2010 Light Duty Truck Lines Subject to the Requirements of This Standard and Exempted Vehicle Lines for Model Year 2010

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination that there are no new model year (MY) 2010 light duty truck lines subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard because they have been determined by the agency to be high-theft or because they have a majority of interchangeable parts with those of a passenger motor vehicle line. This final rule also identifies those vehicle lines that have been granted an exemption from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria.

DATES: *Effective Date:* This final rule is effective June 24, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Consumer Standards Division, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, 1200 New Jersey Avenue, SE., (NVS–131, Room W43–302) Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–0073.

SUPPLEMENTARY INFORMATION: The theft prevention standard applies to: (1) All passenger car lines; (2) all multipurpose passenger vehicle (MPV) lines with a gross vehicle weight rating (GVWR) of 6,000 pounds or less; (3) low-theft light-duty truck (LDT) lines with a GVWR of 6,000 pounds or less that have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines; and (4) high-theft light-duty truck lines with a GVWR of 6,000 pounds or less.

The purpose of the theft prevention standard (49 CFR Part 541) is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines subject to the requirements of the standard.

Section 33104(d) provides that once a line has become subject to the theft prevention standard, the line remains subject to the requirements of the standard unless it is exempted under § 33106. Section 33106 provides that a manufacturer may petition annually to have one vehicle line exempted from the requirements of § 33104, if the line is equipped with an antitheft device meeting certain conditions as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of those LDT lines that have been determined to be high theft pursuant to 49 CFR Part 541, those LDT lines that have been determined to have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines and those vehicle lines that are exempted from the theft prevention standard under section 33104. Appendix A to Part 541 identifies those LDT lines that are or will be subject to the theft prevention standard beginning in a given model year. Appendix A–I to Part 541 identifies those vehicle lines that are or have been exempted from the theft prevention standard.

For MY 2010, there are no new LDT lines that will be subject to the theft prevention standard in accordance with the procedures published in 49 CFR Part 542. Therefore, Appendix A does not need to be amended.

For MY 2010, the list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 is amended to include nine vehicle lines newly exempted in full. The nine exempted vehicle lines are the Dodge Journey, GMC Terrain, Mazda Tribute, Mercury Mariner, Mitsubishi Lancer, Nissan Murano, Porsche Panamera, Subaru Outback and Volkswagen Audi A3.

We note that the agency removes from the list being published in the **Federal Register** each year certain vehicles lines that have been discontinued more than 5 years ago. Therefore, the Chrysler Conquest, Cadillac STS/Seville, Mitsubishi Diamante, Infiniti I30, J30, M30, QX4, and the Volkswagen Cabrio have been removed from the Appendix A–I listing. The agency will continue to maintain a comprehensive database of all exemptions on our web site. However, we believe that re-publishing a list containing vehicle lines that have not been in production for a considerable period of time is unnecessary.

The vehicle lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR Part 543 and 49 U.S.C., 33106. Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment

on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331. For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

A. Executive Order 12866 and DOT Regulatory Policies and Procedures Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It will not impose any new burdens on vehicle manufacturers. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency no new costs or burdens will result.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their rules on small businesses, small organizations and small governmental jurisdictions. I have considered the effects of this rulemaking action under the Regulatory Flexibility Act and certify that it would not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is only to inform the public of agency's previous actions.

C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment. Accordingly, no environmental assessment is required.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually ($120.7 million as adjusted annually for inflation with base year of 1995). The assessment may be combined with other assessments, as it is here.

This final rule will not result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than $120.7 million annually. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency, no new costs or burdens will result.

F. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, ''Civil Justice Reform,''[1] the agency has considered whether this final rule has any retroactive effect. We conclude that it would not have such an effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

[1] See 61 FR 4729, February 7, 1996.

G. Paperwork Reduction Act

The Department of Transportation has not submitted an information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub.L. 104–13, 44 U.S.C. Chapter 35). This rule does not impose any new information collection requirements on manufacturers.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

■ 1. The authority citation for part 541 continues to read as follows:

Authority: 49 U.S.C. 33101, 33102, 33103, 33104, 33105 and 33106; delegation of authority at 49 CFR 1.50.

■ 2. In part 541, Appendix A–I is revised to read as follows:

APPENDIX A–I TO PART 541—LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Subject lines
BMW	MINI.
	X5.
	Z4.
	1 Car Line.
	3 Car Line.
	5 Car Line.
	6 Car Line.
	7 Car Line.
CHRYSLER	300C.
	Jeep Grand Cherokee.
	Jeep Wrangler.
	Town and Country MPV.
	Dodge Charger.
	Dodge Challenger.
	Dodge Journey [1].
	Dodge Magnum (2008) [2].
DAIMLER	smart USA for two.
	SL-Class (the models within this line are):
	300SL.
	500SL.
	600SL.
	SL500.
	SL550.
	SL600.
	SL55.
	SL65.

APPENDIX A–I TO PART 541—LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturer	Subject lines
	S-Class/CL-Class (the models within this line are):
	S450.
	S500.
	S550.
	S600.
	S55.
	S65.
	CL500.
	CL600.
	CL55.
	CL65.
	C-Class/CLK-Class [2] (the models within this line are):
	C240.
	C300.
	C350.
	CLK 350.
	CLK 550.
	CLK 63AMG.
	E-Class/CLS Class (the models within this line are):
	E320/E320DT CDi.
	E350/E500/E55.
	CLS500/CLS55.
FORD MOTOR CO.	Escape
	Ford Five-Hundred (2007).
	Ford Focus.
	Lincoln Town Car.
	Mustang.
	Mecury Mariner [1].
	Mercury Grand Marquis.
	Mercury Sable.
	Taurus.
	Taurus X.
GENERAL MOTORS.	Buick Lucerne
	Buick LeSabre.
	Buick LaCrosse/Century.
	Buick Park Avenue (1992–2005).
	Buick Regal/Century.
	Cadillac DTS/Deville.
	Chevrolet Camaro.
	Chevrolet Cavalier (1997–2005).
	Chevrolet Classic.
	Chevrolet Cobalt.
	Chevrolet Corvette.
	Chevrolet Equinox.
	Chevrolet Impala/Monte Carlo.
	Chevrolet Malibu/Malibu Maxx.
	GMC Terrain [1].
	Oldsmobile Alero.
	Oldsmobile Aurora.
	Pontiac Bonneville.
	Pontiac G6.
	Pontiac Grand Am.
	Pontiac Grand Prix.
	Pontiac Sunfire.
	Saturn Aura.

APPENDIX A–I TO PART 541—LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturer	Subject lines
HONDA	Acura CL.
	Acura NSX.
	Acura RL.
	Acura TL.
HYUNDAI	Azera.
	Genesis.
ISUZU	Axiom.
JAGUAR	XK.
MAZDA	3.
	5.
	6.
	CX–7.
	CX–9.
	MX–5 Miata.
	Millenia.
MITSUBISHI	Eclipse.
	Endeavor.
	Galant.
	Lancer [1].
NISSAN	Altima.
	Maxima.
	Murano [1].
	Pathfinder.
	Quest.
	Rogue.
	Sentra.
	Versa.
	Infiniti G35.
	Infiniti M45.
	Infiniti Q45.
PORSCHE	911.
	Boxster/Cayman.
	Panamera [1].
SAAB	9–3.
SUBARU	Forester.
	Impreza.
	B9 Tribeca.
	Outback [1].
SUZUKI	XL–7.
TOYOTA	Lexus ES.
	Lexus GS.
	Lexus LS.
	Lexus SC.
VOLKS-WAGEN.	Audi 5000S.
	Audi A31.
	Audi A4.
	Audi Allroad.
	Audi A6.
	Audi Q5.
	New Beetle.
	Golf/Rabbit/GTI/R32.
	Jetta.
	Passat.

[1] Granted an exemption from the parts marking requirements beginning with MY 2010.

[2] Nameplate changed to Dodge Challenger beginning with MY 2008.

Issued on: June 15, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E9–14371 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 090225239–91023–02]

RIN 0648–AX73

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 30B Supplement

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to resolve an error contained in the rule to implement Amendment 30B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council) that published in the **Federal Register** on November 18, 2008. The error would have implemented a restriction for the Edges seasonal-area closure that was not intended. This final rule establishes the Edges seasonal-area closure consistent with the intent of Amendment 30B.

DATES: This final rule is effective July 24, 2009.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) for Amendment 30B may be obtained from Peter Hood, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308; e-mail *peter.hood@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Peter Hood, 727–824–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On April 17, 2009, NMFS published a proposed rule to correct an error contained in the rule to implement Amendment 30B and requested public comment (73 FR 17812). The error contained in the Amendment 30B rule would have implemented a longer season for the Edges seasonal-area closure that was not intended and was not supported by Amendment 30B. This final rule corrects that error and establishes the provisions applicable to

the Edges seasonal-area closure consistent with the intent of Amendment 30B. The Edges seasonal-area closure prohibits fishing for any species under Council jurisdiction from January 1 through April 30 each year. This closure creates a larger contiguous area within which fishing activity and fishing mortality will be reduced. This will provide additional protection for spawning aggregations of various grouper species some of which are experiencing overfishing, benefit other reef fish undergoing overfishing, and facilitate more effective enforcement. Additional rationale for the measures contained in Amendment 30B was correctly stated in the preamble to the Amendment 30B proposed rule (73 FR 68390, November 18, 2008) and in the amendment and is not repeated here.

Comments and Responses

NMFS received one comment on the proposed rule from a recreational fisherman that was beyond the scope of this rulemaking. Therefore no response has been provided.

Change from the Proposed Rule

In § 622.2, this rule corrects a typographical error in the spelling of the species name for Caribbean queen conch. This correction is unrelated to the actions taken via Amendment 30B.

Classification

The Administrator, Southeast Region, NMFS, determined that this final rule is necessary for the conservation and management of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a Final Environmental Impact Statement (FEIS) for Amendment 30B. The FEIS was published on October 24, 2008 (73 FR 63470).

NMFS prepared a FRFA for Amendment 30B. The FRFA incorporates the initial regulatory flexibility analysis (FRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the actions, including the action in this rule. A summary of the FRFA is provided in the final rule for Amendment 30B published on April 16, 2008 (73 FR 68390), and is not repeated here. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 18, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.2, the definition of ''Caribbean queen conch or queen conch'' is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Caribbean queen conch or queen conch means the species, *Strombus gigas*, or a part thereof.

* * * * *

■ 3. In § 622.34, the introductory heading of paragraph (k), paragraphs (k)(2), (k)(3), and the first sentence of paragraph (k)(5) are revised and paragraph (k)(1)(iii) is added to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(k) *Closure provisions applicable to the Madison and Swanson sites, Steamboat Lumps, and the Edges.*

(1) * * *

(iii) The Edges is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°51′	85°16′
B	28°51′	85°04′
C	28°14′	84°42′
D	28°14′	84°54′
A	28°51′	85°16′

(2) Within the Madison and Swanson sites and Steamboat Lumps, possession of Gulf reef fish is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in paragraph (k)(4) of this section.

(3) Within the Madison and Swanson sites and Steamboat Lumps during November through April, and within the Edges during January through April, all fishing is prohibited, and possession of any fish species is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in paragraph (k)(4) of this section. The provisions of this paragraph, (k)(3), do not apply to highly migratory species.

* * * * *

(5) Within the Madison and Swanson sites and Steamboat Lumps, during May through October, surface trolling is the only allowable fishing activity. * * *

* * * * *

[FR Doc. E9–14881 Filed 6–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090211163–9795–02]

RIN 0648–AX69

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2009

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

ACTION: Final rule.

SUMMARY: NMFS implements recreational management measures for the 2009 summer flounder and black sea bass fisheries and notifies the public that the recreational management measures for the scup fishery remain the same as in 2008. These actions are necessary to comply with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and to ensure compliance with the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act). The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Effective July 24, 2009.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid–Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790. The EA/RIR/IRFA is also accessible via the

Internet at *http://www.nero.noaa.gov*. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide and EA/RIR/IRFA document are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930–2276.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid–Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational management measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern fishing activity in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The 2009 coastwide recreational harvest limits, after deduction of research set–aside (RSA), are 7,158,600 lb (3,247 mt) for summer flounder; 2,585,952 lb (1,173 mt) for scup; and 1,137,810 lb (516 mt) for black sea bass. The 2009 quota specifications, inclusive of the recreational harvest limits, were previously determined to be consistent with the 2009 target fishing mortality rate (F) for summer flounder and the target exploitation rates for scup and black sea bass.

The proposed rule to implement annual Federal recreational measures for the 2009 summer flounder, scup, and black sea bass fisheries was published on April 1, 2009 (74 FR 14760), and contained management measures (minimum fish sizes, possession limits, and fishing seasons) intended to keep annual recreational landings from exceeding the specified harvest limits.

2009 Recreational Management Measures

Additional discussion on the development of the recreational management measures appeared in the preamble of the proposed rule and is not repeated here. All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight–line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

Summer Flounder Management Measures

Based on the recommendation of the Commission, the NMFS Northeast Regional Administrator finds that the recreational summer flounder fishing measures proposed to be implemented by the states of Massachusetts through North Carolina for 2009 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. According to § 648.107(a)(1), vessels subject to the recreational fishing measures of this part and landing summer flounder in a state with an approved conservation equivalency program shall not be subject to the more restrictive Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) has been amended accordingly. The management measures will vary according to the state of landing, as specified in the following table.

TABLE 1 — 2009 STATE RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum Fish Size		Possession Limit (number of fish)	Fishing Season
	inches	cm		
MA	18.5	46.99	5	July 1 through August 13
RI	21.0	53.34	6	June 17 through December 31
CT	19.5	49.53	3	June 15 through August 19
NY	21.0	53.34	2	May 15 through June 15 and July 3 through August 17
NJ	18.0	45.72	6	May 23 through September 4
DE	18.5	46.99	4	January 1 through December 31
MD[1]	18.0	45.72	3	April 15 through September 13
VA	19.0	48.26	5	January 1 through December 31
NC[2]	15.0	38.10	8	January 1 through December 31

[1]*Chesapeake Bay, MD* – a 16.5–in (41.91–cm) minimum fish size, a 1–fish possession limit, and a fishing season of April 15–September 13 applies.

[2]*Pamlico Sound , NC* – No person may possess flounder less than 14.0 in (35.56 cm) total length (TL) taken from internal waters for recreational purposes west of a line beginning at a point on Point of Marsh in Carteret County at 35° 04.6166′ N lat.–76° 27.8000′ W long., then running northeasterly to a point at Bluff Point in Hyde County at 35° 19.7000′ N lat.–76° 09.8500′ W long. In Core and Clubfoot creeks, the Highway 101 Bridge constitutes the boundary north of which flounder must be at least 14.0 (35.56 cm) in TL.

[2]*Pamlico Sound , NC* – No person may possess flounder less than 14.0 in (35.56 cm) total length (TL) taken from internal waters for recreational purposes west of a line beginning at a point on Point of Marsh in Carteret County at 35° 04.6166′ N lat.–76° 27.8000′ W long., then running northeasterly to a point at Bluff Point in Hyde County at 35° 19.7000′ N lat.–76° 09.8500′ W long. In Core and Clubfoot creeks, the Highway 101 Bridge constitutes the boundary north of which flounder must be at least 14.0 (35.56 cm) in TL.

Albemarle Sound, NC – No person may possess flounder less than 14.0 in (35.56 cm) TL taken from internal waters for recreational purposes west of a line beginning at a point 35° 57.3950′ N lat.– 76° 00.8166′ W long. on Long Shoal Point; running easterly to a point 35° 56.7316′ N lat.–75° 59.3000′ W long. near Marker ''5'' in Alligator River; running northeasterly along the Intracoastal Waterway to a point 36° 09.3033′ N lat.–75° 53.4916′ W long. near Marker ''171'' at the mouth of North River; running northwesterly to a point 36° 09.9093′ N lat.–75° 54.6601′ W long. on Camden Point.

Browns Inlet South, NC – No person may possess flounder less than 14.0 in (35.56 cm) TL in internal and Atlantic Ocean fishing waters for recreational purposes west and south of a line beginning at a point 34° 37.0000′ N lat.–77° 15.000′ W long.; running southeasterly to a point 34° 32.0000′ N lat.–77° 10.0000′ W long.

Scup Management Measures

Table 2 contains the coastwide Federal measures for scup in effect for 2008 and codified. The 2009 measures are unchanged from those at 50 CFR part 648, subpart I, and are presented in Table 2.

TABLE 2 — 2009 SCUP RECREATIONAL MANAGEMENT MEASURES

Fishery	Minimum Fish Size		Possession Limit	Fishing Season
	inches	cm		
Scup	10.5	26.67	15 fish	January 1 through February 28, and October 1 through October 31

The scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission over the last 7 years. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures, the Federal and state recreational scup management measures will differ for 2009.

Black Sea Bass Management Measures

This rule implements the black sea bass measures contained in the April 1, 2009, proposed rule: An increase in minimum fish size from 12.0 to 12.5 inches (30.48 cm to 31.75 cm) and *status quo* measures for possession limit (25 fish per person) and fishing season (January 1–December 31, 2009). Table 3 contains the 2009 coastwide Federal measures for black sea bass.

TABLE 3 — 2009 BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES

Fishery	Minimum Fish Size		Possession Limit	Fishing Season
	inches	cm		
Black Sea Bass	12.5	31.75	25 fish	January 1 through December 31

Comments and Responses

Four comment letters were received regarding the proposed recreational management measures (74 FR 14760, April 1, 2009). Comments were received from two organizations: One from the New York State Department of Environmental Conservation's (NY DEC) Bureau of Marine Fisheries; and the other on behalf of a recreational fishing trade and advocacy organization, the United Boatmen of New York (UBNY). The other two comments were from private citizens. One private citizen commenter expressed general displeasure at how Total Allowable Landings (TALs) and other quotas are established but did not provide specific comment on the recreational management measures. No specific response is provided to this individual's comments, as the relevance to the recreational management measures could not be ascertained.

The materials submitted by UBNY did not make specific comments about the proposed 2009 recreational management measures. The materials submitted reference the comments submitted by NY DEC and highlight many similar issues specifically commented on by NY DEC. Therefore, NMFS considers the response to the NY DEC comments as responsive to the UBNY concerns as well. Many of the issues raised by commenters for the 2009 recreational management measures are identical to those raised for the 2008 recreational management measures and are, in turn, the same as the arguments made by plaintiffs, which include the NY DEC and UBNY, in an ongoing lawsuit against the Secretary of Commerce (Secretary) for implementation of the 2008 summer flounder measures.[1]

Comment 1: The NY DEC alleged that state–by–state conservation equivalency violates National Standard 2 of the Magnuson–Stevens Act, which requires conservation and management actions to be based upon the best available scientific information.

Specifically, the commenter alleged the following ways that state–by–state conservation equivalency violates National Standard 2: (a) The use of Marine Recreational Fishery Statistical Survey (MRFSS) data to develop state–by–state conservation equivalency measures has inadequate resolution for state–level monitoring and management. The comment cites the 2006 NOAA–commissioned National Academy of Sciences independent review of MRFSS that stated monitoring fisheries at a state level is a finer stratification than originally intended for the data collected, and that the existing sampling strata may be too coarse a resolution to generate estimates that are adequate for management requirements; (b) the use of 1998 as a landings baseline as the starting point for landings reductions is outdated, inadequate, and flawed; (c) state–by–state conservation equivalency is not responsive to changes that have occurred in stock status wherein the summer flounder stock has redistributed and is composed of larger, older fish, particularly adjacent to New York State; and (d) the level of angler effort and distribution has changed substantially since 1998, and MRFSS data would support increasing the percentage of

[1] *State of New York et al.* v. *Gutierrez et al.* Civil Action No. 08–cv–02503–CPS

summer flounder recreational landings allocated to New York.

Response: NMFS disagrees that managing the summer flounder recreational fishery using state–by–state conservation equivalency is a violation of National Standard 2. The following responds to the specific points raised in the above comment:

a. The information provided by MRFSS, along with additional information provided by individual states and fishery independent surveys, is sufficient and appropriate to manage the recreational summer flounder fishery on a state–by–state basis.

The analytical process for 2009 was not dissimilar to that used in 2008: Both the Council and Commission considered the precision of MRFSS estimates at a state–by–state level; discussed the adequacy of, and equity issues related to, the 1998 landings baseline; evaluated the performance of conservation equivalency in the prior year, including the ''performance–based adjustment factor'' implemented for 2008; contemplated both coastwide and regional approaches to management; and, in conclusion, recommended the continued use of conservation equivalency with new modifications to NMFS for 2009.

The Commission established a requirement for 2009 that at least 50 percent of the necessary reductions for the fishing year be achieved by season closures rather than by imposing more stringent size or bag limits. This system modification was created by the Commission in response to the 2008 required ''performance–based adjustment factor'' having poor success in constraining landings to the required levels. The Commission requirement to call for a substantive adjustment to fishing seasons to achieve the desired individual state landing reductions is consistent with recommendations from the Council's Summer Flounder Monitoring Committee and Commission's Summer Flounder Technical Committee, both scientific advisory bodies to the Council and Commission, respectively, and NMFS. The recommendation for season closures is based on the premise that modification to seasons, either through periodic in–season closures or shortened overall seasons, are better suited to ensure a reduction in landings than are either changes in minimum fish size or possession limits. Fishery closures are noted by the Monitoring Committee and Technical Committee as having more significant compliance rates and, thus, result in near–zero landings when applied. Modifications to minimum fish size and possession limits have demonstrated higher levels of non–compliance that minimize their effectiveness. Additionally, inter–annual fish growth may result in diminished effectiveness of minimum fish sizes if that growth keeps pace with increases in size. The requirement to adjust seasons to better ensure landing reductions represents further refinement by the Commission to ensure that state–by–state conservation equivalency functions as envisioned and achieves the required conservation objectives.

Framework Adjustment 2 to the FMP (66 FR 36208, July 11, 2001) states that conservation equivalency may only be used by area (i.e., states) if the proportional standard error of the MRFSS landings estimate, by area, is less than 30 percent. On a state–by–state basis, the 2008 MRFSS estimates of landings utilized in establishing the 2009 conservation equivalency program have proportional standard errors ranging from a high of 26.3 percent for Massachusetts to a low of 10.8 percent for New York. This is compared to 8.3 percent for the Mid–Atlantic states (New York to Virginia), combined, and 12.1 percent for the New England states (Maine to Connecticut) combined. While the proportional standard error is lower when dealing with larger data aggregations, the error levels associated with individual states are well within the acceptable error levels specified in Framework Adjustment 2 to the FMP, which implemented the regulatory structure to permit management of the summer flounder recreational fishery through conservation equivalency.

As was outlined in the 2008 response to comments (May 23, 2008; 73 FR 29990), NMFS has been aware of limitations in the MRFSS design and data for some time. It is, in fact, why NOAA commissioned the review by the National Academy of Sciences. While the review pointed out numerous areas for improvement of the MRFSS sampling design, nowhere in the assessment did the National Academy of Sciences' reviewers indicate that use of the MRFSS data at smaller spatial scales (i.e., state–by–state) was an inappropriate use of the data. Clearly, the precision of the landings estimates are improved when at an aggregate, coastwide level, but the use of the data to establish catch at a state level is not a violation of National Standard 2. The proportional standard error remains acceptable at the state–by–state level of resolution. The Commission's Technical Committee explored using the upper bound of the proportional standard error for each state's landings estimate as a means to make conservation equivalency more robust in 2008. The Technical Committee found that such an approach was impracticable, as it would have required many states to make downward harvest adjustments in years when no such adjustment was necessary. These considerations of the accuracy and precision of MRFSS data continue to be true for the 2009 state–by–state conservation equivalency program. Moreover, the Commission has modified the conservation equivalency approach for 2009, attempting to further ensure that the system functions as envisioned.

NMFS does not disagree that the use of current MRFSS methodology and data has moved well beyond their originally intended purpose. However, as has often been stated in the past, MRFSS continues to be the only source of data currently available to assess the effort, harvest, and discards in recreational fisheries at any spatial scale. NMFS understands the frustrations and disagreements that arise with the MRFSS data set when it is used for certain management purposes and is working to improve the quality and utility of data collected for recreational fisheries management. Were MRFSS data not utilized, there would be no alternative means to quantify recreational harvest, participation levels, or to assess management measures on a coastwide or state–by–state basis for all Atlantic states in the Northeast Region. Clearly, this would present substantial complications to effectively managing the summer flounder recreational fishery and the Magnuson–Stevens Act required objective of rebuilding the summer flounder stock. NMFS's development and implementation efforts for the Marine Recreational Information Program (MRIP), designed to address the National Academy of Sciences recommendations, fishery management needs, and to be responsive to input from recreational anglers, are ongoing. MRIP is the revised recreational survey methodology and data collection designed to be responsive to the National Academy of Sciences peer–review recommendations. Detailed information on the MRIP program can be found on the NMFS Office of Science and Technology web site: *http://www.st.nmfs.noaa.gov/mrip/*. Some aspects of the MRIP program will become effective in the 2009 fishing year. In addition, a national saltwater angler registry, as required by the Magnuson–Stevens Reauthorization Act of 2006, will become effective on January 1, 2010. This registry will greatly assist recreational fishery data collection efforts.

b. The conservation equivalency system was implemented in 2001 by Framework Adjustment 2 to the Federal FMP (66 FR 36208, July 11, 2001) and the Commission's companion action Addendum III to the Commission's Summer Flounder, Scup, and Black Sea Bass FMP. Under this process, states are allowed to design management measures to achieve their specified recreational management targets which, in turn, ensures that the coastwide recreational harvest limit will be achieved. NMFS has implemented conservation equivalency, as recommended by the Council and Commission, in each year since 2001. There are New York representatives on both the Council and Commission.

The overarching process of conservation equivalency establishes a set of guidelines for states to tailor management measures that meet the conservation objectives of the FMP rather than being subject to a one–size–fits–all coastwide approach. The conservation equivalency framework is uniform and applied consistently for all states, without differentiating among U.S. citizens, nationals, resident aliens, or corporations on the basis of their state of residence. Individual states are free to develop, based on the fishery practices in their state, any combination of minimum fish size, possession limit, and fishing season to ensure that, when paired with the remaining Atlantic coastal states, the coastwide recreational harvest limit will not be exceeded. Each state's circumstance with respect to landings and overage is unique to that state and argues against the application of the same measures for each state. The Commission's Technical Committee evaluates the proposed state measures and, if sufficient, a recommendation to adopt, as functionally equivalent, the reviewed and approved measures is forwarded by the Commission to NMFS for implementation. This ensures that the conservation objectives of the FMP and the summer flounder rebuilding program are met.

To achieve conservation equivalency, the Commission, not NMFS, establishes a base recreational allocation that each state receives from the coastwide recreational harvest limit and specifies the percent reduction or liberalization in landings each state's measures must meet for each year. The conservation equivalency system does not result in a direct distribution of fishing privileges to individual states by NMFS. This allocation is not earmarked solely for the residents of an individual state; rather, any landing made in the state in question is counted against that state's recreational allocation. Fishery participants are free to participate in multiple states, land in adjacent states, etc., and are not discriminated against based on their state of residence.

c. NMFS agrees that the status of the summer flounder stock has changed since 1998, as the stock has experienced rebuilding toward the maximum sustainable yield level. The summer distribution of summer flounder is, as stated by the commenters, primarily in inshore areas from the Mid–Atlantic Bight to southern New England. There has been an increase in both fish ages and sizes in the past decade. NMFS reiterates what was stated in response to comments in 2008: That catch levels (i.e., quotas) are established annually and that increases in stock size, distribution, and increases in fish size and age are all captured within the stock assessment framework utilized to generate quota–related information. The issue raised by NY DEC is one of allocation that functions separately from stock status. (See response to Comment 2 for additional information.)

The Commission has continued to establish the basis for the state recreational harvest allocations as the percentage of 1998 coastwide recreational landings by state. However, the Commission is at liberty to revise or amend these allocation percentages independently of the Council and/or NMFS as specific state recreational fishery percent allocations are not codified in the Federal regulations that implement the conservation equivalency program. The Commission has had significant discussion in both 2007 and 2008 about reevaluating 1998 as the baseline year. In both years, the Commission has elected to continue using 1998 coastwide landings by state as the baseline. The continued use of 1998 landings data by the Commission was not arbitrary; the intent of 1998 as the base allocation year was to establish a reference against which the effects of proposed regulations could be effectively evaluated.

d. The Commission is at liberty to explore modifications to state allocations based on angler–related statistics, number of anglers, or angler effort. To date, the Commission has elected to use the last year (1998) in which consistent measures were applied coastwide as the starting point for annual allocations. NMFS has no grounds to disapprove the recommended 2009 conservation equivalency measures recommended by the Commission because one member state of the Commission disagrees with the allocation structure utilized to derive equivalent measures. The amount of fish provided each state from the overall recreational harvest limit is wholly a function of the Commission process.

For these reasons, NMFS contends that implementing conservation equivalency, as recommended by the Council and Commission for 2009, does not violate National Standard 4 or National Standard 2 of the Magnuson–Stevens Act.

Comment 2: The NY DEC also alleged that state–by–state conservation equivalency violates National Standard 4 of the Magnuson–Stevens Act, which states that conservation and management actions implemented by NMFS shall not discriminate between residents of different states. The commenter raised concerns about disparities that arise between adjacent states' management measures under the state–by–state conservation equivalency management system, specifically citing the differences between 2009 New York and adjacent New Jersey and Connecticut measures. The commenter asserts that such differences are highly inequitable, unfair, and have no linkage to conservation and recovery of summer flounder. The commenter also stated that the overages that have occurred in New York waters in recent years are not the result of cheating, but are a result of recovery of summer flounder and natural changes to the summer flounder population. Thus, the commenter states, New York is being punished unfairly for conditions beyond its control.

Response: NMFS disagrees that state–by–state conservation equivalency is a violation of National Standard 4 for the reasons outlined in response to comment 1c. The recreational quotas distributed to the states under the Commission's Interstate Summer Flounder FMP are based on the application of the same rule to each state; individual state quotas are based on the state's share of the overall 1998 recreational catch of summer flounder. Understandably, since recreational landings varied in each state, state recreation quotas derived from the landings would vary as well. So too would the measures in each state developed to achieve the state's conservation equivalency with the Federal coastwide measures adopted by the Council and Commission as a non–preferred alternative. In essence, differing state measures are derived from the application of the same rule to each state and designed to achieve the same result using varying quotas. The application of the same rule to a number of states that yields different results among those states due to disparate landing levels is consistent with National Standard 4.

NY DEC asserts that there is nothing that can be done to control excessive recreational harvest, given the large number of anglers paired with availability of large summer flounder in New York waters, and further insinuates that only a change in allocation will provide relief to the continued annual overages. The angler noncompliance rate with the minimum fish sizes established for New York has ranged from 5 to 13 percent during the years 1999 to 2008. NMFS contends that there are indeed measures that could be undertaken that would ensure that New York landings do not exceed their given allocation in any given year: Closed seasons during peak fishing seasons; shortened overall seasons; consideration of angler rates of noncompliance in calculating effectiveness of proposed measures; increases in enforcement efforts; supplementation of MRFSS collected data by state data–collection programs; and use of a buffer to sufficiently mitigate management uncertainty when crafting recreational management measures are all approaches that have to date, gone largely unused by NY DEC in establishing recreational summer flounder measures. NMFS contends that New York must ensure responsible, effective measures in 2009 to break the cycle wherein landings targets are consistently exceeded.

Comment 3: Comments by the NY DEC on managing summer flounder as a unit stock are similar to those provided on the 2008 recreational management. The comment suggests that state–by–state conservation equivalency violates National Standard 3 of the Magnuson–Stevens Act, which requires individual fish stocks to be managed as a unit throughout their ranges, to the extent practicable. This year, additional comments were added regarding the scientific reasoning for state–by–state management.

Response: NMFS disagrees with the commenter, as the summer flounder stock is managed as a single unit, consistent with National Standard 3. National Standard 3 does not require that management measures within the management unit be the same. Management is cooperative among the Commission, which represents individual states in the management unit, the Council, and NMFS. The stock assessment conducted in support of annual TAL setting is for the entire Northeast Region management unit for summer flounder, from Maine to North Carolina. Catch limits for the recreational and commercial fisheries are established for the entire coast. The overarching commercial TAL is managed on a state–by–state basis, parsed by historic landings percentage by each state. Conversely, the recreational fishery may employ coastwide measures, or regional or state–by–state conservation equivalency to achieve the coastwide recreational harvest level. When state–by–state conservation equivalency is utilized for management, the individual state management measures are structured to achieve equivalency with the overarching coastwide (i.e., single management unit) recreational harvest limit. Furthermore, the regulations implementing National Standard 3 (50 CFR 600.320) clearly state that management measures need not be identical for each geographic area within the management unit.

The comment that fish do not recognize geopolitical boundaries is often used as an argument against management systems. The overarching scientific approach for managing the summer flounder stock has been previously described. An annual catch level is determined to ensure that conservation objectives are met for the year. From there, for summer flounder, the overall catch level is parsed into commercial and recreational sectors and further subdivision to states. These further subdivisions are not scientific in nature, but are allocative, and there are no requirements that the allocation be inherently biologically based, provided the sum of the allocations does not exceed the annual science–based conservation objective. As previously described, the recreational state–by–state allocation criteria utilized by the Commission is based on the last year of consistent coastwide measures (1998). The Commission is free to revisit and modify this allocation structure at any time as the individual state recreational harvest shares are not codified in Federal regulation.

Comment 4: NY DEC has alleged that state–by–state conservation equivalency violates National Standard 6 of the Magnuson–Stevens Act, which states that conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. The basis for the commenter's assertion is that conservation equivalency does not address a northward shift in summer flounder stock distribution.

Response: NMFS disagrees and asserts that the commenters have misinterpreted the intent of National Standard 6, which is to ensure that an FMP management regime includes some protection against uncertainties that may arise. National Standard 6 directs FMPs to have a suitable buffer, in favor of conservation, to deal with uncertainty, which may also be stated as a conservative approach. Examples provided in NMFS guidance on National Standard 6 (50 CFR 600.336) include reductions in optimum yield, establishment of reserves, and adjustable management techniques to compensate for changes that occur during a fishing year as suitable buffers to mitigate uncertainty.

In regard to conservation equivalency, a summer flounder stock assessment is conducted annually, and fully accounts for, among other things, stock distribution, changes in stock size, and fishery removals. The stock assessment does fully account for changes in stock dynamics and distribution in providing the basis for setting the annual coastwide TAL, which is then divided among the recreational and commercial fisheries.

Further, both the states and NMFS are able to monitor recreational harvests during the fishing season, and both can take corrective or closure actions to ensure that mortality objectives or harvest targets are not exceeded. For these reasons, NMFS finds that the use of state–by–state conservation equivalency complies with National Standard 6 of the Magnuson–Stevens Act.

Comment 5: NY DEC commented that state–by–state conservation equivalency does not appear to be conserving the fishery and that coastwide measures would make better use of the available data and provide a new baseline year for future landings reductions. NY DEC has requested that NMFS implement coastwide measures instead of the Council and Commission's preferred alternative for state–by–state conservation equivalency.

Response: NMFS has been continually concerned with what was described by NY DEC as the states' practices of adjusting recreational measures to maximize harvest within the individual state allocation or, more plainly stated, conducting analysis that gets as close as possible to the landings limit without exceeding, on paper, said limit. Many of NMFS's concerns, raised in correspondence from NMFS Northeast Regional Administrator Patricia Kurkul and former Assistant Administrator Dr. William Hogarth, have been quoted often in the NY DEC comments.

The conservation equivalency system has not remained static since NMFS first raised concerns that the system must be improved to provide a higher likelihood of constraining landings to the established recreational harvest limit. There have been positive advances in

how the conservation equivalency analysis is conducted and the stipulations that the Commission has required of member states, all of which are designed to improve the performance of the system and ensure conservation objectives are met. NMFS has given deference to the states through the Commission process to continue to explore measures that improve the performance of conservation equivalency, provided the requirements of Framework Adjustment 2 to the FMP, the overarching FMP regulations, the Magnuson–Stevens Act, and other applicable law are satisfied in so doing. NMFS continues to encourage individual states, though the Commission, to conduct analyses that provide a buffer between expected landings and individual states landing limits in the absence of more qualitative means of improving conservation equivalency.

As noted in the comment, the Commission required a ''performance–based adjustment factor'' for the 2008 fishery, as well as requiring the use of a predicted average fish weight. This system further reduced states' 2008 targets by a factor that was derived by taking the average of yearly harvest-to-target performance by state from 2001–2007. As indicated in the comment by NY DEC, this system did not ensure that the 2008 recreational management targets were not exceeded by a number of states.

For 2009, the Commission is requiring a new refinement to the conservation equivalency system: States that have required reductions to meet their 2009 landings targets must ensure that at least half of the reduction is the result of modification to fishing seasons. NMFS contends that this is a continued demonstration of the Commission's willingness to make substantive improvements in the conservation equivalency management system. Were the ''performance–based adjustment factor'' recommended for 2009 or no modification of how states set minimum fish size, possession limit, and fishing season required by the Commission, the approval of state–by–state conservation equivalency would have been difficult for NMFS to justify. This is because of the past repetitive failures of the unmodified conservation equivalency program and NMFS's need to rebuild the summer flounder stock by 2013.

For NMFS to disapprove the Council's recommendation and substitute alternative measures, in this case coastwide management measures, NMFS must reasonably demonstrate that the recommended measures are either inconsistent with applicable law or otherwise demonstrate that the conservation objectives of the FMP will not be achieved by implementing the recommendation in question. NMFS does not find the Council and Commission's recommendation are legally suspect or incapable of achieving the FMP's conservation objectives in light of the reduction in fishing season mandated by the Commission for use in 2009.

However, NMFS remains concerned that there is little margin for error in the remaining 3 years of the summer flounder rebuilding plan (2010–2012). Therefore, recreational landings will be monitored in season and, if necessary to ensure the mortality objectives are not compromised for 2009, an inseason closure of the EEZ may occur. Any such closure action would be announced through multiple media outlets, including publication of a notice in the **Federal Register**.

Use of information on a coastwide basis would improve the precision of the MRFSS estimates and would, as indicated by the commenters, provide a new baseline year of landings for future use. The level of precision provided under state–by–state conservation equivalency is not of insufficient resolution for management (see response to Comment 1) and, should states have concerns about the precision of landings estimates at a state level, NMFS recommends establishing recreational management measures that provide a sufficient buffer to mitigate for any loss of precision.

NMFS is implementing, through this final rule, state–by–state conservation equivalency as recommended by both the Council and Commission for the reasons previously outlined in the preamble to this rule. Under conservation equivalency, each state has implemented a unique minimum fish size, possession limit, and fishing season tailored to ensure that these measures result in recreational landings equivalent to the coastwide recreational harvest level.

Comment 6: NY DEC requested that the 2008 landings estimate for New York be adjusted from 600,000 fish to 565,000 fish. The change in number is a result of the final 2008 MRFSS catch data being available as opposed to the estimated landings used during the Council and Commission recreational management measures development discussion.

Response: The individual state landings limits, including the percent reduction from the previous year landings estimate and target number of fish to be landed, are specified through the Commission process. Estimated landings are often utilized as final prior year landings estimates are not available until the first quarter of the following year. The Commission's Summer Flounder Management Board would need to approve measures for New York designed to achieve any modified 2009 landings target. NMFS recommends that NY DEC pursue this discussion with the Commission and Summer Flounder Management Board.

Comment 7: One commenter stated that the 2009 recreational management measures are unfair to the financial lower class, further stating that if one has money and he/she can buy a permit, they can presumably participate in the recreational fisheries for summer flounder, scup, or black sea bass.

Response: The Council conducted analysis consistent with Executive Order 12898, which directs each Federal agency to achieve environmental justice as part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low–income populations. Council analysis indicated that 28 percent of marine recreational anglers fish for reasons other than recreation and one–third rely on catching marine resources as a cost–saving food source or supplement to income. The black sea bass and scup possession limits are unchanged for 2009. Under conservation equivalency for summer flounder, the management measures should permit the fishery to operate in a manner that dissipates, to the extent practicable, adverse effects on the angling population while ensuring that conservation objectives are met. The Council concluded that, based on this analysis contained in the EA/RIR/IRFA document (see **ADDRESSES** for information on obtaining the source document), the actions of the 2009 recreational management measures were not expected to cause disproportionately high adverse or economic effects on low–income populations.

Regarding the commenter's second point, there are currently no Federal permit fees for private anglers or for individuals to obtain a Federal party/charter permit.

Classification

The Administrator, Northeast Region, NMFS, determined that this final rule implementing the 2009 summer flounder, scup, and black sea bass recreational management measures is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries, and

that it is consistent with the Magnuson–Stevens Act and other applicable laws.

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

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts described in the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the action. Copies of the EA/RIR/IRFA and supplement are available from the Council and NMFS (see **ADDRESSES**).

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are explained in the preambles to the proposed rule and this final rule, and are not repeated here.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

A summary of the comments received and NMFS's responses thereto is contained in the preamble of this rule. None of those comments addressed specific information contained in the IRFA economic analysis. One comment received stated that the 2009 recreational management measures were unfair to the financial lower class. See response to Comment 7 in the Comment and Responses section. No changes have been made from the proposed rule as a result of the comments received.

Description and Estimate of Number of Small Entities to Which This Rule Will Apply

The Council estimated that the proposed measures could affect any of the 962 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2007, the most recent year for which complete permit data are available. However, only 342 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2007.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken to Minimize Economic Impact on Small Entities

No–action alternatives. The economic analysis conducted in support of this action assessed the impacts of the various management alternatives. In the EA, the no action alternative for each species is defined as the continuation of the management measures as codified for the 2008 fishing season. The no–action measures were analyzed in Alternative 2 for each species in the Council's EA/RIR/IRFA.

For summer flounder, state–specific implications of the no–action (coastwide) alternative of a 20.0–inch (50.80–cm) minimum fish size, a two–fish possession limit, and a May 1 through September 30, 2009, fishing season would not achieve the mortality objectives required, and, therefore, cannot be continued for the 2009 fishing season. Similarly, the no–action alternative for black sea bass (a 12.0–in (30.48–cm) minimum fish size, a 25–fish possession limit, and no closed fishing season) would result in fishing mortality that exceeds the level established for 2009 and, therefore, cannot be continued for the 2009 fishing season. This rule implements the no–action alternative for scup (i.e., *status quo*). The implications of so doing are not substantial; the management measures remain the same as those in place for 2008. Council analysis indicates that minimal impact may occur even with continuation of the *status quo* scup measures. These impacts would likely result from changes in year-to-year costs associated with fishing for scup.

Summer flounder alternatives. In seeking to minimize the impact of recreational management measures (minimum fish size, possession limit, and fishing season) on small entities (i.e., Federal party/charter permit holders), NMFS is constrained to implementing measures that meet the conservation objectives of the FMP and Magnuson–Stevens Act rebuilding program requirements. As previously indicated, the no–action alternative for summer flounder was considered but rejected by the Council, and subsequently NMFS, on the grounds that analysis indicated it would not ensure that the 2009 mortality objectives would be met. The remaining alternatives examined by the Council and forwarded for consideration by NMFS consisted of the preferred alternative of state–by–state conservation equivalency with a precautionary default backstop, and the non–preferred alternative of coastwide measures. These were alternatives 1 and 2, respectively, in the Council's EA/RIR/IRFA. These two alternatives were determined by the Council analyses to satisfy the 2009 conservation objectives for the recreational fishery, i.e., analysis indicated that implementation of either would constrain recreational landings within the 2009 recreational harvest limit. Therefore, either alternative recreational management system could be considered for implementation by NMFS, as the critical metric of satisfying the regulatory and statutory requirements would be met by either.

Next, NMFS considered the recommendation of both the Council and Commission. Both groups recommended implementation of state–by–state conservation equivalency, with a precautionary default backstop. The recommendations of both groups were not unanimous: New York representatives dissented and voted against conservation equivalency in the Commission proceedings, and the Council representatives from New York likewise voted against continued recommendation of conservation equivalency in 2009.

The conservation equivalency approach allows states some degree of flexibility in the specification of management measures, unlike the application of one set of uniform coastwide measures. The degree of flexibility available to states under conservation equivalency is constrained to a combined suite of minimum fish size, possession limit, and fishing season that will achieve the required percent reduction required for 2009 (i.e., achieve the conservation objectives). This provides the opportunity for states to construct measures that achieve the conservation objectives while providing a state–specific set of measures in lieu of the one–size–fits–all coastwide measure. States that fail to provide measures, or whose measures do not achieve the required reduction, are assigned the more restrictive precautionary default measures. For 2009, the Commission required that states obligated to reduce their 2009 landings under the conservation equivalency program do so by manipulating the fishing season through either periodic fishery closures or shortened overall fishing seasons. Specifically, the Commission required that at least 50 percent of any required reduction in landings was to occur as the result of season manipulation, with the remainder of any reduction achieved through modification to minimum fish size and/or possession limits. This

recommendation follows advice provided by the Commission's Technical Committee and Council's Summer Flounder Monitoring Committee that modification to fishing season is a more effective means of ensuring landings reduction than are either changes to minium fish size or possession limit.

At this time, it is not possible to determine the precise economic impact on small entities under conservation equivalency. The specific measures adopted for each state were only made available to NMFS from the Commission on May 7, 2009, and were unavailable for analysis during this rulemaking. Because the recreational fisheries in many states will have begun by the time this rule is effective, NMFS has elected to forego quantitative analysis of the specific conservation equivalency measures as implemented by the individual states, as the need to have measures in place in a timely fashion outweighs the benefits of delaying publication of this rule to complete further analysis. However, economic impact is likely to be proportional to the level of landings reductions required for each individual state. As such, the greater the percent reduction required for states in 2009 (Table 4), the greater the potential for higher economic impacts on small entities in comparison to coastwide measures dependent on the configuration of management measures ultimately selected.

TABLE 4. 2009 STATE–BY–STATE PERCENT SUMMER FLOUNDER RECREATIONAL FISHERY LANDINGS REDUCTION REQUIRED UNDER FRAMEWORK ADJUSTMENT 2 CONSERVATION EQUIVALENCY PROGRAM.[1]

State	MD	RI	CT	NY	NJ	DE	MD	VA	NC
Percent Required Reduction	24	42	35	39	7	0	51	0	0

[1]Based on a 70.4–percent reduction from 1998 landings and a 12.0–percent reduction from 2008 landings.

For NMFS to disapprove the Council's recommendation for conservation equivalency and substitute coastwide management measures, NMFS must reasonably demonstrate that the recommended measures are either inconsistent with applicable law or demonstrate that the conservation objectives of the FMP will not be achieved by implementing conservation equivalency. NMFS does not find the Council and Commission's recommendation to be inconsistent with the implementing regulations of the FMP found at § 648.100 or the Magnuson–Stevens Act. Furthermore, NMFS finds that the Commission requirement to manipulate fishing seasons for at least half of the state's 2009 reductions is a novel, continued demonstration to try and improve the performance of conservation equivalency. In 2008, the Commission implemented an additional performance based adjustment that further increased several state's required reductions for the year. This performance–based adjustment did not prevent the 2008 recreational harvest limit from being exceeded. Accordingly, the Commission has required a different approach for 2009, with the expectation that it will be more effective than the system in place for 2008.

The use of coastwide management measures was considered by NMFS. In fact, as commenters stated in response to the proposed rule, NMFS had previously advocated for a coastwide approach in the early stages of past years' recreational fishery management measures development. The economic impacts on small entities under the coastwide measures management system would vary in comparison to the conservation equivalency system dependent on the specific state wherein the small entities operate. In the Council's provided analysis, closed seasons typically result in a higher economic impact to small entities than do increases in minimum fish sizes or reduction in possession limits. The reason for this is that angler success begins to decline at higher minimum fish size and higher possession limits, yielding lower return on the effectiveness of implementing such measures. Closed seasons, however, are unmistakable in their effectiveness as they permit no harvest irrespective of fish size or possession limit, provided there are no compliance issues. Closed seasons also are typically more easily enforceable. The interplay between the three management measures and the inability to quantitatively assess the impacts of the state's implemented conservation equivalency measures make definitive statements regarding impacts difficult to provide. Both fishery independent and dependent data suggest that larger summer flounder are less common in the southern portion of the management range; therefore, implementation of coastwide measures may have a more profound economic impact on small entities operating in the southern portion of the management area if the minimum fish size is set larger than fish that are typically available in southern states. Conservation equivalency is generally expected to mitigate the economic impact in states with lower required percent reductions for 2009 compared to the 12–percent coastwide reduction that would be necessary were coastwide measures employed. In those states, management measures can be tailored to suit the expressed needs of both small entities and other recreational fishery participants while achieving the required conservation equivalency percent reduction. Conversely, coastwide measures may yield lower economic impacts for states with the percent reductions greater than the total coastwide level of reduction required for 2009 by permitting smaller minimum fish sizes paired with slightly lower possession limits, and comparable fishing seasons than would be required to be implemented under conservation equivalency.

NMFS is implementing the Council and Commission's recommended state–by–state conservation equivalency measures for the reasons previously stated: (1) The state–by–state conservation equivalency management system has again been modified, by the Commission, from the previously utilized methodology that reduced the magnitude of exceeding the recreational harvest limit in 2008 but ultimately did not ensure landings remained below the desired level; and (2) NMFS finds no compelling reason to disapprove the Council and Commission's recommended 2009 management system, as the analysis provided by the Commission's Technical Committee demonstrates that the improved conservation equivalency system will provide a high likelihood that the 2009 recreational harvest limit will not be exceeded. To further ensure that the 2009 recreational harvest limit is not exceeded, NMFS is prepared to close the EEZ during the fishing season if harvest projections indicate that the 2009 recreational harvest limit may be exceeded before the end of the calendar year.

Black sea bass alternatives. Similar to summer flounder, the options available

for black sea bass recreational management measures are constrained to selecting a suite of minimum fish size, possession limit, and fishing season measures that achieves the annual conservation objectives. In this case, the conservation objective is a level of recreational black sea bass landings that is below the 2009 recreational harvest level. Therefore, the selection of measures available to mitigate the economic impact on small entities is constrained to those measures that will permit the maximum amount of recreational landings while achieving the specified conservation objectives for the fishing season.

For 2009, a coastwide reduction in black sea bass landings of 10.0 percent is necessary to achieve the conservation objective. The Council's EA/RIR/IRFA evaluated alternatives 1 and 3 for black sea bass, which would achieve this objective. The Council recommended, and NMFS is implementing, Alternative 1, consisting of a half–inch increase in minimum fish size from 12.0 to 12.5 inches (30.48 cm to 31.75 cm) and maintenance of the *status quo* 25–fish possession limit and year–round season (January 1–December 31, 2009), because it is projected to achieve a 12.0–percent reduction in black sea bass recreational landings in 2009. Alternative 3, consisting of a 12.0–inch (30.48–cm) minimum fish size, a 25–fish possession limit, and fishing seasons January 1 through May 15 and June 15 through December 31, 2009, is projected to reduce landings by 13.3 percent from 2008 levels. The measures of this alternative are more restrictive than necessary to achieve the conservation objectives for 2009 and were not recommended by either the Council or Commission. Therefore, this rule implements the increased minimum fish size contained in Alternative 1, as recommended by both the Council and Commission.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as the small entity compliance guide was prepared and will be sent to all holders of Federal party/charter permits issued for the summer flounder, scup, and black sea bass fisheries. In addition, copies of this final rule and the small entity compliance guide are available from NMFS (see **ADDRESSES**) and at the following website: *http://www.nero.noaa.gov*.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 18, 2009.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.102, the first sentence of the introductory text is revised to read as follows:

§ 648.102 Time restrictions.

Unless otherwise specified pursuant to § 648.107, vessels that are not eligible for a moratorium permit under § 648.4(a)(3) and fishermen subject to the possession limit may fish for summer flounder from May 1 through September 30. * * *

■ 3. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) Unless otherwise specified pursuant to § 648.107, the minimum size for summer flounder is 20.0 inches (50.80 cm) TL for all vessels that do not qualify for a moratorium permit, and charter boats holding a moratorium permit if fishing with more than three crew members, or party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members.

* * * * *

■ 4. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) Unless otherwise specified pursuant to § 648.107, no person shall possess more than two summer flounder in, or harvested from, the EEZ, unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. * * *

* * * * *

■ 5. In § 648.107, paragraph (a) introductory text and paragraph (b) are revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2009 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season – July 4 through September 7; minimum size – 21.5 inches (54.61 cm); and possession limit – one fish.

■ 6. In § 648.143, paragraph (b) is revised to read as follows:

§ 648.143 Minimum sizes.

* * * * *

(b) The minimum fish size for black sea bass is 12.5 inches (31.75 cm) TL for all vessels that do not qualify for a moratorium permit, and for party boats holding a moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a moratorium permit, if fishing with more than three crew members.

* * * * *

[FR Doc. E9–14877 Filed 6–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090129076–9926–02]

RIN 0648–AX56

Fisheries of the Northeastern United States; Spiny Dogfish; Framework Adjustment 2

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

ACTION: Final rule.

SUMMARY: NMFS announces approval of Framework Adjustment 2 (Framework 2) to the Spiny Dogfish Fishery Management Plan (FMP), which was developed by the Mid-Atlantic and New England Fishery Management Councils (Councils). Framework 2 broadens the FMP stock status determination criteria for spiny dogfish, while maintaining objective and measurable criteria to identify when the stock is overfished or approaching an overfished condition. The framework action also establishes acceptable categories of peer review of new or revised stock status determination criteria for the Council to use in its specification-setting process for spiny dogfish. This action is necessary to ensure that changes or modification to the stock status determination criteria, constituting the best available, peer-reviewed scientific information, are accessible to the management process in a timely and efficient manner, consistent with National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action modifies the process for defining and peer-reviewing the stock status determination criteria, as defined in the FMP and does not implement or change any regulations.

DATES: Effective July 24, 2009.

ADDRESSES: Copies of Framework Adjustment 2 are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The framework document is also accessible via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Policy Analyst, phone: 978–281–9244, fax: 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

A proposed rule for this action was published in the **Federal Register** on March 3, 2009 (74 FR 9208), with public comment accepted through April 2, 2009. This final rule is unchanged from the proposed rule. A complete discussion of the development of Framework 2 appears in the preamble to the proposed rule and is not repeated here.

Framework 2 is designed to improve the time frame in which peer reviewed information can be utilized in the management process, as well as providing guidance on peer review standards and how to move forward in the management process when peer review results are not clear. Framework 2:

1. Redefines, in general terms, the stock status determination criteria for spiny dogfish;
2. Defines what constitutes an acceptable level of peer review; and
3. Provides guidance on how the Council may engage its Scientific and Statistical Committee (SSC), including cases when approved peer review processes fail to provide a consensus recommendation or clear guidance for management decisions.

Redefined Stock Status Determination Criteria

Framework 2 redefines the stock status determination criteria for spiny dogfish in the FMP. The maximum fishing mortality rate (F) threshold is defined as Fmsy; which is the fishing mortality rate associated with the maximum sustainable yield (MSY) for spiny dogfish. The maximum fishing mortality rate threshold, or a reasonable proxy thereof, may be defined as a function of (but not limited to): Total stock biomass, spawning stock biomass, or total pup production; and may include males and/or females, or combinations and ratios thereof, that provide the best measure of productive capacity for spiny dogfish. Exceeding the established fishing mortality rate threshold constitutes overfishing.

The minimum stock size threshold is defined as 1/2 of the biomass at MSY (Bmsy) (or a reasonable proxy thereof) as a function of productive capacity. The minimum stock size threshold may be defined as (but not limited to): Total stock biomass, spawning stock biomass, or total pup production; and may include males and/or females, or combinations and ratios thereof, that provide the best measure of productive capacity for spiny dogfish. The minimum stock size threshold is the level of productive capacity associated with the relevant 1/2 Bmsy level. Should the measure of productive capacity for the stock or stock complex fall below this minimum threshold, the stock or stock complex is considered overfished. The target for rebuilding is specified as Bmsy, under the same definition of productive capacity as specified for the minimum stock size threshold.

Under Framework 2, the stock status determination criteria are made more general by removing specific references to how maximum fishing mortality threshold, minimum stock size threshold, and biomass are calculated. By making the stock status determination criteria more general, the results of peer reviewed best available science are more readily adopted through the specification-setting process. The Councils would still provide specific definitions for the stock status determination criteria in the specifications and management measures, future framework adjustments, and amendments, including, where necessary, information on changes to the definitions.

Peer Review Standards

While the Northeast Fisheries Science Center's (NEFSC) Stock Assessment Workshop (SAW) and Stock Assessment Review Committee (SARC) process remains the primary process utilized in the Northeast Region to develop scientific stock assessment advice, including stock status determination criteria for federally managed species, Framework 2 includes several additional scientific review bodies and processes that would constitute an acceptable peer review to develop scientific stock assessment advice for spiny dogfish stock status determination criteria.

Guidance on Unclear Scientific Advice Resulting from Peer Review

In many formal peer reviews, the terms of reference provided in advance of the review instruct the reviewers to formulate specific responses on the adequacy of information and to provide detailed advice on how that information may be used for fishery management purposes. As such, most stock assessment peer reviews result in clear recommendations on stock status determination criteria for use in the management of fish stocks. However, there are occasional peer review results where panelists disagree and no consensus recommendation is made regarding the information. Or, the terms of reference may not be followed and no recommendations for the suitability of

the information for management purposes may be made. In such instances, it is unclear what then constitutes the best available information for management use.

Framework 2 states that, when clear consensus recommendations are made by any of the acceptable peer review groups, the information is considered the best available and may be utilized by the Council in the management process for spiny dogfish. Similarly, when the consensus results of a peer review are to reject proposed changes to the stock assessment methods or the stock status determination criteria, Framework 2 states that the previous information on record would still continue to constitute the best available information and should be used in the management process.

When peer review recommendations do not result in consensus, are unclear, or do not make recommendations on how the information is to be used in the management process, Framework 2 states that the Councils engage their SSCs or a subset of their SSCs with appropriate stock assessment expertise, to review the information provided by the peer review group. The SSCs would then seek to clarify the information and provide advice to the Councils to either modify, change, or retain the existing stock status determination definitions as the best available information for use in the development of specifications and management measures.

Comments and Responses

No comments specific to Framework 2 were received during the public comment period. NMFS received three comments under the Framework 2 proposed rule, but all were actually regarding the spiny dogfish 2009 specifications and management measures proposed rule (74 FR 11706, March 19, 2009), which was open for public comment at the same time. NMFS responded to those comments in the final rule for the spiny dogfish 2009 specifications and management measures (74 FR 20230, May 1, 2009).

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson–Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson–Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: June 18, 2009.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–14882 Filed 6–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351–9087–02]

RIN 0648–XP97

Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot, Arrowtooth Flounder, and Sablefish by Vessels Participating in the Amendment 80 Limited Access Fishery in Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing directed fishing for Greenland turbot, arrowtooth flounder, and sablefish by vessels participating in the Amendment 80 limited access fishery in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 halibut bycatch allowance specified for the trawl Greenland turbot, arrowtooth flounder, and sablefish fishery category by vessels participating in the Amendment 80 limited access fishery in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 19, 2009, through 2400 hrs, A.l.t., December 31, 2009.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 halibut bycatch allowance specified for the trawl Greenland turbot, arrowtooth flounder, and sablefish fishery category by vessels participating in the Amendment 80 limited access fishery in the BSAI is 5 metric tons as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009).

In accordance with § 679.21(e)(3)(vi)(B) and § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the 2009 halibut bycatch allowance specified for the trawl Greenland turbot, arrowtooth flounder, and sablefish fishery category by vessels participating in the Amendment 80 limited access fishery in the BSAI has been caught. Consequently, NMFS is closing directed fishing for Greenland turbot, arrowtooth flounder, and sablefish by vessels participating in the Amendment 80 limited access fishery in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for Greenland turbot, arrowtooth flounder, and sablefish by vessels participating in the Amendment 80 limited access fishery in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 18, 2009.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon

the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: June 19, 2009

Kristen C. Koch,

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

[FR Doc. E9–14872 Filed 6–19–09; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 120
Wednesday, June 24, 2009

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

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580–AA94

United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice, to change the requirement that certain information currently provided on the grade line of official certificates for Mixed rice be moved to the Results section of the inspection certificate. These proposed changes enhance the use of the inspection certificate and, as a result, will help to facilitate the marketing of Mixed rice.

DATES: Comments must be received on or before August 24, 2009.

ADDRESSES: You may submit your written or electronic comments on this notice to:

- *Mail:* Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643–S, Washington, DC 20250–3604.
- *E–Mail comments to: comments.gipsa@usda.gov.*
- *Fax:* (202) 690–2173.
- *Internet:* Go to *http://www.regulations.gov* and follow the on-line instruction for submitting comments.

All comments will become a matter of public record and should be identified as ''U.S. Standards for Rice Notice Comments,'' making reference to the date and page number of this issue of the **Federal Register**. Comments will be available for public inspection at *http://www.regulations.gov* and in the above office during regular business hours (7 CFR 1.27(b)). Please call the GIPSA Management Support Staff at (202) 720–7486 to make an appointment to read comments received.

FOR FURTHER INFORMATION CONTACT: Beverly A. Whalen, USDA–GIPSA–FGIS–ODA, Beacon Facility—STOP 1404, P.O. Box 419205, Kansas City, Missouri 64141–6205; Telephone: (816) 823–4648; Fax Number: (816) 823–4644; e-mail: *Beverly.A.Whalen@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621–1627) directs and authorizes the Secretary of Agriculture to develop and improve standards for agricultural products (7 U.S.C. 1622). These are standards of quality, condition, quantity, grade, and packaging. The standards encourage uniformity and consistency in commercial practices.

The Grain Inspection, Packers and Stockyards Administration (GIPSA) establishes and maintains a variety of quality and grade standards for agricultural commodities. These standards serve as a fundamental starting point to define commodity quality in the domestic and global marketplace. The AMA standards are voluntary and widely used in private contracts, government procurement, marketing communication, and, for some commodities, consumer information. Standards developed by GIPSA under the AMA include rice, whole dry peas, split peas, feed peas, lentils, and beans.

GIPSA inspects shipments of rice in accordance with the standards to establish the grade and issue inspection certificates for each shipment. We provide official procedures for inspections in the Rice Inspection Handbook for determining the various grading factors. In addition to Federal usage, the rice standards are applied by one state and one private cooperator. In 2008 GIPSA performed approximately 37 percent of official rice inspections, with state and private cooperators performing the balance of official inspections. Official rice inspectors issue inspection certificates. The certificates document the grade designation on the grade line of the inspection certificate. The requirements for the grade designation for Rough Rice, Brown Rice for Processing, and Milled Rice categories are included in the regulations in 7 CFR part 868.

The current regulations in 7 CFR Part 868 Subparts C (sections 868.201–213), D (sections 868.251–264), and E (sections 868.301–316) specify U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice, respectively, and include provisions concerning the contents of the grade designation for each category of rice. In the grade designation for each category of rice, there is an additional set of information provided for the class of Mixed rice that specifies the content. Under the current standards, this additional information for Mixed rice is included on the grade line of the inspection certificate.

We propose to move the information on Mixed rice to the Results section of the certificate to enhance the use of the certificate.

Description of Proposed Amendments

The changes we propose would move some required information concerning Mixed rice from the grade line section of the certificate to the Results section of the inspection certificate for Rough Rice, Brown Rice for Processing, and Milled Rice. The additional grade designation information for the class of Mixed rice in each of the three rice categories are not grade determining factors, as specified in the standards. As such, these changes would not change the grade designation requirements. The proposed changes would only change where certain information is reported on the inspection certificate. There is more space in the Results section of the inspection certificate, and thus it is a more appropriate place to report this information. While taking this approach will not change the grade of the product, it will enhance the use of the inspection certificate.

We propose to change the regulations in sections 7 CFR 868.211, 262, and 314 by:

(1) Revising the section heading wording from ''Grade Designation'' to read ''Grade Designation and Other Certificate Information,''

(2) Specifying the grade designation requirements for all classes of rice in paragraph (a) of each section,

(3) Specifying additional information required only for the class of Mixed rice in paragraph (b) of each section,

(4) Specifying that the additional information for Mixed rice be reported in the Results section of the inspection certificate, and

(5) Converting the note at the end of the section to a new paragraph (c) in each section.

In addition, we propose other minor changes that include clarifying that grade designation information goes on the grade line of the inspection certificate. We also propose to make the format more readable and more consistent with other regulations in this section by converting notes into numbered paragraphs, and by inserting line breaks after each item in numbered lists of items.

Effects on Regulated Entities

We are proposing to amend the regulations to move certain information from the grade line to the Results section of the inspection certificate. This action simplifies the standards for rice and will improve official inspection services by allowing for more efficient use of electronic certification. Interested persons should not be additionally burdened by this proposed amendment. Having more legible inspection certificates, however, should help these persons facilitate the marketing of rice.

Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget designated this rule as not significant for the purposes of Executive Order 12866.

We have determined that these proposed amendments would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). An initial regulatory flexibility analysis as described in 5 U.S.C. 605 of the Regulatory Flexibility Act is not required or provided here.

The rice industry includes producers [approximately 4,300 farms (USDA–2002 Census of Agriculture)], handlers, processors, and merchandisers, who are the primary users of the rice standards, and use the standards as a common trading language to market rice. In addition, there is one state cooperator and one private cooperator that apply the standards. For North American Industry Classification System (NAICS) code 311212 ''rice milling,'' the Small Business Administration size standard is $500,000 in annual revenues. Most users of the official inspection services and those entities that perform these services do not meet the requirement of small entities. Even though some users are small entities, this proposed rule would not adversely affect or burden these users. Under the provisions of the AMA (7 U.S.C. 1621–1627), it is not mandatory for rice to be inspected. We do not expect the proposed changes to add any additional cost for entities of any size. Further, they would apply equally to all entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have a retroactive effect. This rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the information collection and recordkeeping requirements in Part 868 have been previously approved by OMB No. 0580–0013.

E-Government Compliance

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

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities, Reporting and recordkeeping requirements, Rice.

For the reasons set out in the preamble, we propose to amend 7 CFR Part 868 as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Revise § 868.211 to read as follows:

§ 868.211 Grade designation and other certificate information.

(a) *Rough rice.* The grade designation for all classes of Rough rice shall be included on the certificate grade-line in the following order:

(1) The letters ''U.S.'';

(2) The number of the grade or the words ''Sample grade,'' as warranted;

(3) The words ''or better,'' when applicable and requested by the applicant prior to inspection;

(4) The class;

(5) Each applicable special grade (see § 868.213); and

(6) A statement of the milling yield.

(b) *Mixed Rough rice information.* For the class Mixed Rough rice, the following information shall be included in the Results section of the certificate in the following order:

(1) The percentage of whole kernels of each type in the order of predominance;

(2) The percentage of large broken kernels of each type in the order of predominance;

(3) The percentage of material removed by the No. 6 sieve or the No. 6 sizing plate; and

(4) The percentage of seeds, when applicable.

(c) *Large broken kernels.* Large broken kernels, other than long grain, in Mixed Rough rice shall be certified as ''medium or short grain.''

(Approved by the Office of Management and Budget under control number 0580–0013)

3. Revise § 868.262 to read as follows:

§ 868.262 Grade designation and other certificate information.

(a) *Brown rice for processing.* The grade designation for all classes of Brown rice for processing shall be included on the certificate grade-line in the following order:

(1) The letters ''U.S.'';

(2) The number of the grade or the words ''Sample grade,'' as warranted;

(3) The words ''or better,'' when applicable and requested by the applicant prior to inspection;

(4) The class; and

(5) Each applicable special grade (see § 868.264).

(b) *Mixed Brown rice for processing information.* For the class Mixed Brown rice for processing, the following information shall be included in the Results section of the certificate in the following order:

(1) The percentage of whole kernels of each type in the order of predominance;

(2) The percentage of broken kernels of each type in the order of predominance, when applicable; and

(3) The percentage of seeds, related material, and unrelated material.

(c) *Broken kernels.* Broken kernels, other than long grain, in Mixed Brown rice for processing shall be certified as ''medium or short grain.''

(Approved by the Office of Management and Budget under control number 0580–0013)

4. Revise § 868.314 to read as follows:

§ 868.314 Grade designation and other certificate information.

(a) *Milled rice.* The grade designation for all classes of Milled rice shall be included on the certificate grade-line in the following order:

(1) The letters ''U.S.'';

(2) The number of the grade or the words ''Sample grade,'' as warranted;

(3) The words ''or better,'' when applicable and requested by the applicant prior to inspection;

(4) The class; and

(5) Each applicable special grade (see § 868.316).

(b) *Mixed Milled rice information.* For the class Mixed Milled rice, the following information shall be included in the Results section of the certificate in the following order:

(1) The percentage of whole kernels of each type in the order of predominance;

(2) The percentage of broken kernels of each type in the order of predominance, when applicable; and

(3) The percentage of seeds and foreign material.

(c) *Broken kernels.* Broken kernels, other than long grain, in Mixed Milled rice shall be certified as ''medium or short grain.''

(Approved by the Office of Management and Budget under control number 0580–0013)

J. Dudley Butler,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E9–14846 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0246; Directorate Identifier 2009–NE–04–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation AE 3007A1/1, AE 3007A1/3, AE 3007A1, AE 3007A1E, AE 3007A1P, AE 3007A3, AE 3007C, and AE 3007C1 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Rolls-Royce Corporation (RRC) AE 3007A1/1, AE 3007A1/3, AE 3007A1, AE 3007A1E, AE 3007A1P, AE 3007A3, AE 3007C, and AE 3007C1 turbofan engines with a fan spinner part number (P/N) 23070964 or P/N 23078783, installed. This proposed AD would require replacement of the fan spinner. This proposed AD results from a report of a fan spinner releasing from an AE 3007A turbofan engine, during flight. We are proposing this AD to prevent the fan spinner from releasing, which could result in injury, damage to the engine, and damage to the airplane.

DATES: We must receive any comments on this proposed AD by August 24, 2009.

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

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

Contact Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206; telephone (317) 230–3774; fax (317) 230–8084; e-mail: *indy.pubs.services@rolls-royce.com,* for a copy of the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; e-mail: *michael.downs@faa.gov;* telephone: (847) 294–7870; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2009–0246; Directorate Identifier 2009–NE–04–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed 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 proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the AD Docket

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

Discussion

We received a report of a fan spinner releasing from an AE 3007A turbofan engine, during flight. After observing noise and vibration, the flight crew shut down the No. 1 engine and made an uneventful landing. Inspection of the No. 1 engine revealed a missing fan spinner and damage to the fan blades. Also noted was debris penetration through the forward engine cowl in three locations, and through the airplane outer skin in two locations. At the time of inspection, the No. 1 engine had accumulated 11,682 operating hours time-since-new, and 8,535 cycles-in-service-since-new. RRC then performed spin pit testing of the affected design fan spinner, and found a high stress concentration in the 12 bolt hole windows of the fan spinner. This stress concentration can potentially develop into low-cycle-fatigue cracks. This condition, if not corrected, could result in the fan spinner releasing, which could result in injury, damage to the engine, and damage to the airplane.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require replacement of the fan spinner, P/N 23070964 or P/N 23078783.

Costs of Compliance

We estimate that this proposed AD would affect 1,600 RRC AE 3007A series and AE 3007C series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about one work-hour per engine to perform the proposed actions, and that the average labor rate is $80 per work-

hour. Required parts would cost about $12,943 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $20,836,800.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce Corporation (formerly Allison Engine Company): Docket No. FAA–2009–0246; Directorate Identifier 2009–NE–04–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by August 24, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce Corporation (RRC) AE 3007A1/1, AE 3007A1/3, AE 3007A1, AE 3007A1E, AE 3007A1P, AE 3007A3, AE 3007C, and AE 3007C1 turbofan engines with a fan spinner part number (P/N) 23070964 or P/N 23078783, installed. These engines are installed on, but not limited to, Embraer EMB–135, EMB–145, and Cessna Citation X airplanes.

Unsafe Condition

(d) This AD results from a report of a fan spinner releasing from an AE 3007A turbofan engine during flight. We are issuing this AD to prevent the fan spinner from releasing, which could result in injury, damage to the engine, and damage to the airplane.

Compliance

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

Replacement of the Fan Spinner

(f) For RRC AE 3007A1/1, AE 3007A1/3, AE 3007A1, AE 3007A1E, AE 3007A1P, and AE 3007A3 turbofan engines, remove fan spinner P/N 23070964 or P/N 23078783 at the next shop visit, but no later than 1,500 additional cycles-in-service (CIS) after the effective date of this AD.

(g) For RRC AE 3007C and AE 3007C1 turbofan engines, remove fan spinner P/N 23070964 or P/N 23078783 at the next shop visit, but no later than 1,500 additional CIS after the effective date of this AD.

Fan Spinner Installation Prohibition

(h) After the effective date of this AD, do not install any fan spinner P/N 23070964 or P/N 23078783 on any Rolls Royce Corporation engine.

Definition

(i) For the purpose of this AD, a shop visit is induction of the engine into the engine maintenance shop for any cause.

Alternative Methods of Compliance

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

Related Information

(k) Contact Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; e-mail: *michael.downs@faa.gov;* telephone: (847) 294–7870; fax: (847) 294–7834, for more information about this AD.

(l) Rolls-Royce Corporation Service Bulletin (SB) No. AE 3007A–72–361, dated June 26, 2008, and SB No. AE 3007C–72–285, dated June 26, 2008, pertain to the subject of this AD. Contact Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206; telephone (317) 230–3774; fax (317) 230–8084; e-mail: *indy.pubs.services@rolls-royce.com,* for a copy of this service information.

Issued in Burlington, Massachusetts, on June 17, 2009.

Carlos Pestana,

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

[FR Doc. E9–14812 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24171; Directorate Identifier 2006–NE–08–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50C Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to revise an existing airworthiness directive (AD) for General Electric Company (GE) CF6–50C series turbofan engines. That AD currently requires reworking certain forward fan stator cases and installing a fan module secondary containment shield. This proposed AD would require the same actions but would eliminate a certain service bulletin from the compliance method. This proposed AD results from a review that shows that only one of the service bulletins referenced in the original AD is applicable as a compliance method. We are proposing this AD revision to prevent uncontained fan blade failures, which can result in separation of

airplane hydraulic lines, damage to critical airplane systems, and possible loss of airplane control.

DATES: We must receive any comments on this proposed AD by August 24, 2009.

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

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

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.rosa@faa.gov;* telephone (781) 238–7152; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–24171; Directorate Identifier 2006–NE–08–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed 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 proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the AD Docket

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

Discussion

On May 22, 2007, we issued AD 2007–11–18, Amendment 39–15075 (72 FR 30249, May 31, 2007). That AD requires reworking certain forward fan stator cases and installing a fan module secondary containment shield. That AD resulted from reports of uncontained fan blade failures. That condition, if not corrected, could result in separation of airplane hydraulic lines, damage to critical airplane systems, and possible loss of airplane control due to uncontained fan blade failures.

Actions Since AD 2007–11–18 Was Issued

Since AD 2007–11–18 was issued, we determined that we don't need GE Service Bulletin No. CF6–50 S/B 72–0986, Revision 2, dated March 21, 2007, applicable to DC–10 series aircraft, in order to satisfy our corrective action requirements. Accordingly, this proposed AD deletes this SB as a required corrective action.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For this reason, we are proposing this AD revision, which would require reworking certain forward fan stator cases and installing a fan module secondary containment shield on Airbus A300 series airplanes, and would eliminate GE Service Bulletin No. CF6–50 S/B 72–0986, Revision 2, dated March 21, 2007. The proposed AD would require that you do the rework and installations using GE Service Bulletin No. CF6–50 S/B 72–0985, Revision 2, dated March 21, 2007 only.

Costs of Compliance

We estimate that this AD would affect 40 CF6–50C series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 2.5 work hours per engine to perform the actions, and that the average labor rate is $80 per work hour. Required parts would cost about $9,451 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $386,040.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–15075 (72 FR 30249, May 31, 2007), and by adding a new airworthiness directive, to read as follows:

General Electric Company: Docket No. FAA–2006–24171; Directorate Identifier 2006–NE–08–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by August 24, 2009.

Affected ADs

(b) This AD revises AD 2007–11–18, Amendment 39–15075.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–50C, CF6–50C1, CF6–50C2, and CF6–50C2R turbofan engines, with a forward fan stator case, part number (P/N) 9064M53G04, G05, G06, G07, G08, G09, G10, G12, or G13, or P/N 9173M37G01, G02, G03, G04, G05, or G06 installed. These engines are installed on, but not limited to, Airbus A300, McDonnell Douglas DC–10 series, and DC–10–30F (KC–10A, KDC–10) airplanes.

Unsafe Condition

(d) This AD revision results from a review that shows that only one of the service bulletins referenced in the original AD is applicable as a compliance method. We are issuing this AD to prevent uncontained fan blade failures, which can result in separation of airplane hydraulic lines, damage to critical airplane systems, and possible loss of airplane control.

Compliance

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

(f) At the next engine shop visit after the effective date of this AD, but no later than June 30, 2010, rework the forward fan stator case and install the fan module secondary containment shield.

(1) For engines on Airbus 300 series airplanes, use paragraph 3, Accomplishment Instructions, of GE Service Bulletin (SB) No. CF6–50 S/B 72–0985, Revision 2, dated March 21, 2007, to do the rework and installation.

(2) Deleted.

(g) The rework and installation specified in paragraph (f)(1) of this AD can also be done on-wing.

Previous Credit

(h) Previous credit is allowed for fan stator cases reworked and containment shields installed using GE SB No. CF6–50 S/B 72–0985, dated December 2, 1991 or Revision 1, dated September 15, 1998 before the effective date of this AD.

Alternative Methods of Compliance

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

Related Information

(j) European Aviation Safety Agency airworthiness directive 2004–0007, dated December 15, 2004, also addresses the subject of this AD.

(k) Contact James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.rosa@faa.gov;* telephone (781) 238–7152; fax (781) 238–7199, for more information about this AD.

(l) Contact General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422, for a copy of the service information referenced in this AD.

Issued in Burlington, Massachusetts, on June 17, 2009.

Carlos Pestana,

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

[FR Doc. E9–14815 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0143; Directorate Identifier 2009–NE–05–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90–110B1, GE90–113B, and GE90–115B Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for General Electric Company (GE) GE90–110B1, GE90–113B, and GE90–115B series turbofan engines with stage 6 low-pressure turbine (LPT) blades, part number (P/N) 1765M37P03 or P/N 1765M37P04, installed. This proposed AD would require initial and repetitive inspections for shroud interlock wear of the stage 6 LPT blades. This proposed AD would also require replacing those blades with stage 6 LPT blades eligible for installation at the next engine shop visit as terminating action to the repetitive blade inspections. This proposed AD results from eight reports of GE90–115B stage 6 LPT single-blade separation events. We are proposing this AD to prevent failure of stage 6 LPT blades, which could result in uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by August 24, 2009.

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

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

Contact General Electric Company via GE—Aviation, Attn: Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246; telephone (513) 552–3272; fax (513) 552–3329, for a copy of the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *barbara.caufield@faa.gov;* telephone (781) 238–7146; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2009–0143; Directorate Identifier 2009–NE–05–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the

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

Examining the AD Docket

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

Discussion

Since December of 2007, GE reported eight instances of stage 6 LPT single-blade failures in some GE90 series engines. GE's investigation indicated that excessive wear at the shroud interlock of stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04, caused the failures. The interlock surface wears during operation which results in a loss of axial preload (contact between two surfaces) between two adjacent stage 6 LPT blades. This wear leads to increased tip deflection and blade stress. This condition, if not corrected, could result in failure of stage 6 LPT blades, which could result in uncontained engine failure and damage to the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of GE Service Bulletin No. GE90–100 SB 72–0260, Revision 6, dated May 1, 2009. That SB describes procedures for inspecting stage 6 LPT blades, P/N 1765M37P03, and P/N 1765M37P04, for shroud interlock wear.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require initial and repetitive inspections for shroud interlock wear of stage 6 LPT blades, P/N 1765M37P03 and P/N 1765M37P04. This proposed AD would also require replacing those blades with stage 6 LPT blades eligible for installation, at the next engine shop visit, as terminating action to the repetitive blade inspections. The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect four GE GE90 series engines installed on airplanes of U.S. registry. We also estimate that it would take about 18 work-hours per engine to perform one inspection of the stage 6 LPT blades, and that the average labor rate is $80 per work-hour. Replacement stage 6 LPT blades would cost $258,280 per engine. We estimate that no additional labor costs would be incurred to perform the required blade replacements, because the replacements would be done at the time of the engine shop visit. Based on these figures, we estimate the total cost of the proposed AD for one inspection to U.S. operators to be $1,038,880.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2009–0143; Directorate Identifier 2009–NE–05–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by August 24, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) GE90–110B1, GE90–113B, and GE90–115B series turbofan engines with stage 6 low-pressure turbine (LPT) blades, part number (P/N) 1765M37P03 or P/N 1765M37P04, installed. These engines are installed on, but not limited to, Boeing 777–200LR, 777–300ER, and 777 Freighter series airplanes.

Unsafe Condition

(d) This AD results from eight reports of GE90–115B stage 6 LPT single-blade separation events. We are issuing this AD to prevent failure of stage 6 LPT blades, which could result in uncontained engine failure and damage to the airplane.

Compliance

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

Inspections

(f) Before accumulating 3,000 engine operating hours time-since-new, or 400 engine cycles-since-new, whichever occurs first, inspect the stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04 for shroud interlock wear. Thereafter, reinspect within every 1,000 engine operating hours, or within 125 engine cycles-since-last inspection, whichever occurs first. Use paragraphs 3.A. through 3.A.(3)(g)(12) of the Accomplishment Instructions of GE Service Bulletin (SB) No. GE90–100 SB 72–0260, Revision 6, dated May 1, 2009, to do the inspections.

Terminating Action

(g) At the next engine shop visit, replace stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04, with stage 6 LPT blades eligible for installation as terminating action to the repetitive inspections required by this AD.

Installation Prohibition of Affected Stage 6 LPT Blades

(h) After the effective date of this AD, do not install any stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04, onto any engine.

Previous Credit

(i) An inspection performed before the effective date of this AD using GE SB No. GE90–100 SB 72–0260, Revision 4, dated October 8, 2008, or Revision 5, dated November 7, 2008, satisfies the initial inspection requirement of this AD.

Definition

(j) For the purpose of this AD, an engine shop visit is induction of the engine into the shop for any cause.

Alternative Methods of Compliance

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

Related Information

(l) Contact Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *barbara.caufield@faa.gov;* telephone (781) 238–7146; fax (781) 238–7199, for more information about this AD.

(m) Guidance on stage 6 LPT blades that are eligible for installation can be found in GE Service Bulletin No. 72–0279, Revision 1, dated December 11, 2008, and GE Service Bulletin No. 72–0313, dated March 18, 2009.

(n) Contact General Electric Company via GE—Aviation, Attn: Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246; telephone (513) 552–3272; fax (513) 552–3329, for a copy of the service information identified in this AD.

Issued in Burlington, Massachusetts, on June 17, 2009.

Carlos Pestana,

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

[FR Doc. E9–14807 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0362; Airspace Docket No. 09–ASW–10]

Proposed Establishment of Class D Airspace; Arlington, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace at Arlington, TX. Establishment of an air traffic control tower at Arlington Municipal Airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) aircraft operations at Arlington Municipal Airport.

DATES: 0901 UTC. Comments must be received on or before August 10, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0362/Airspace Docket No. 09–ASW–10, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0362/Airspace Docket No. 09–ASW–10.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by establishing Class D airspace from the surface up to but not including 2,000 feet MSL for IFR operations at Arlington Municipal Airport, Arlington, TX. The area would be depicted on appropriate aeronautical charts.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Arlington Municipal Airport, Arlington, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Arlington, TX [New]

Arlington Municipal Airport, TX
(Lat. 32°39′50″ N., long. 97°05′39″ W.)

That airspace extending upward from the surface, to but not including 2,000 feet MSL within a 4-mile radius of Arlington Municipal Airport, excluding the portion east of a line between lat. 32°43′48″ N.; long. 97°05′06″ W.; and lat. 32°38′10″ N.; long. 97°3′26″ W., and lat. 32°36′16″ N.; long. 97°03′31″ W., excluding that airspace within the Dallas/Fort Worth, TX, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX on June 16, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–14814 Filed 6–23–09; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0363; Airspace Docket No. 09–ASW–11]

Proposed Establishment of Class D Airspace; Grand Prairie, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace at Grand Prairie, TX. Establishment of an air traffic control tower at Grand Prairie Municipal Airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) aircraft operations at Grand Prairie Municipal Airport.

DATES: 0901 UTC. Comments must be received on or before August 10, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0363/Airspace Docket No. 09–ASW–11, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0363/Airspace Docket No. 09–ASW–11.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

Additionally, any person may obtain a copy of this notice by submitting a

request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class D airspace upward from the surface to but not including 2,000 feet MSL for IFR operations at Grand Prairie Municipal Airport, Grand Prairie, TX. The area would be depicted on appropriate aeronautical charts.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Grand Prairie Municipal Airport, Grand Prairie, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Grand Prairie, TX [New]

Grand Prairie Municipal Airport, TX
(Lat. 32°41′55.6″ N., long. 97°02′48.9″ W.)

That airspace extending upward from the surface, to but not including 2,000 feet MSL within a 3.8-mile radius of Grand Prairie Municipal Airport, excluding the portion west of a line between lat. 32°45′00″ N.; long. 97°05′28″ W., and lat. 32°38′10″ N.; long. 97°3′26″ W., and excluding that portion north of a line between lat. 32°45′00″ N.; long. 97°05′28″ W.; and lat. 32°45′00″ N.; long. 97°00′10″ W., and excluding that airspace within the Dallas/Fort Worth, TX Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX on June 16, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–14808 Filed 6–23–09; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0191; Airspace Docket No. 09–ACE–4]

Proposed Establishment of Class E Airspace; Neligh, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Neligh, NE. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Antelope County Airport, Neligh, NE. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at Antelope County Airport.

DATES: 0901 UTC. Comments must be received on or before August 10, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0191/Airspace Docket No. 09–ACE–4, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall

regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0191/Airspace Docket No. 09–ACE–4.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by establishing Class E airspace extending upward from 700 feet above the surface for SIAPs operations at Antelope County Airport, Neligh, NE. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ACE NE E5 Neligh, NE [New]

Antelope County Airport, NE
(Lat. 42°06′44″ N., long. 98°02′23″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Antelope County Airport and within 3.3 miles either side of the 193° bearing from the airport extending from the 7.7-mile radius to 10.2 miles south of the airport, and within 2.2 miles either side of the 013° bearing from the airport extending from the 7.7-mile radius to 10.1 miles north of the airport.

* * * * *

Issued in Fort Worth, TX on June 16, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–14811 Filed 6–23–09; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–1099; Airspace Docket No. 08–AWP–10]

Proposed Modification of Class E Airspace; Lake Havasu, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace at Lake Havasu City, AZ. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Lake Havasu City Airport, Lake Havasu, AZ. The FAA is proposing this action to enhance the safety and management of aircraft operations at Lake Havasu City Airport, Lake Havasu, AZ.

DATES: Comments must be received on or before August 10, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, 20590. Telephone (202) 366–9826. You must identify FAA Docket No. FAA–2008–1099; Airspace Docket No. 08–AWP–10, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601

Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2008–1099 and Airspace Docket No. 08–AWP–10) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2008–1099 and Airspace Docket No. 08–AWP–10''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace at Lake Havasu City Airport, Lake Havasu, AZ. Controlled airspace extending 700 feet above the surface is necessary to accommodate aircraft using the new RNAV (GPS) SIAPs at Lake Havasu City Airport, Lake Havasu, AZ. This action would enhance the safety and management of aircraft operations at Lake Havasu City Airport, Lake Havasu, AZ.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AWP AZ E5 Lake Havasu, AZ [Modified]

Lake Havasu City Airport, AZ
(Lat. 34°34′16″ N., long. 114°21′30″ W.)

Chemehuevi Valley Airport, CA
(Lat. 34°31′44″ N., long. 114°25′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Lake Havasu City Airport and within 1 mile each side of the Lake Havasu City Airport 150° bearing extending from the 6.7-mile radius to 13 miles southeast of the Lake Havasu City Airport, excluding that airspace with a 2.2-mile radius of Chemehuevi Valley Airport. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34°42′47″ N., long. 114°29′37″ W.; to lat. 34°42′47″ N., long. 114°12′06″ W.; to lat. 34°23′00″ N., long. 114°12′06″ W.; to lat. 34°17′19″ N., long. 114°32′12″ W.; thence to the point of beginning.

* * * * *

Issued in Seattle, Washington, on June 12, 2009.

William Buck,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E9–14819 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM09–8–000]

Revised Mandatory Reliability Standards for Interchange Scheduling and Coordination

June 18, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Commission proposes to approve three updated Interchange Scheduling and Coordination (INT) Reliability Standards developed by the North American Electric Reliability Corporation. The proposed INT Reliability Standards specify times for entities in the Western Interconnection to review and respond to requests for interchange service, specifically, on-time requests for service and requests for emergency interchange and reliability adjustment interchange service. In addition, the revisions set forth appropriate response times for all requests for on-time, emergency and reliability adjustment interchange service.

DATES: Comments are due July 24, 2009.

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

- *Agency Web Site: http://ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Danny Johnson (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8892.

Rheta Johnson (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6503.

Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8744.

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act (FPA), the Commission proposes to approve three updated Interchange Scheduling and Coordination (INT) Reliability Standards developed by the North American Electric Reliability Corporation (NERC): INT–005–3, Interchange Authority Distributes Arranged Interchange; INT–006–3, Response to Interchange Authority; and INT–008–3, Interchange Authority Distributes Status. The proposed INT Reliability Standards specify response times for entities in the Western Interconnection to review and respond to requests for interchange service. In addition, the revisions set forth appropriate response times for all requests for on-time, emergency and reliability adjustment interchange service.[1]

2. The revised INT Reliability Standards update and replace version 2 of the INT Reliability Standards. NERC adopted these standards pursuant to an urgent action request under NERC procedures, which require that the standards be resubmitted for processing through NERC's normal Reliability Standards development procedures.[2] The proposed rule would benefit the reliable operation of the Bulk-Power System by clarifying how long the relevant entities have to respond to requests for interchange service and providing entities in the Western Interconnection with sufficient time to assess and respond to requests for interchange service.[3]

I. Background

A. EPAct 2005 and Mandatory Reliability Standards

3. On August 8, 2005, the Electricity Modernization Act of 2005 was enacted as Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[4] EPAct 2005 added section 215 to the FPA, requiring the Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards to provide for the reliable operation of the Bulk-Power System, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[5]

4. On February 3, 2006, the Commission issued Order No. 672, implementing section 215.[6] Pursuant to Order No. 672, the Commission certified NERC as the ERO.[7] The ERO is required to develop Reliability Standards, subject to Commission review and approval, applicable to users, owners and operators of the Bulk-Power System, as set forth in each Reliability Standard.

5. Section 215(d)(2) of the FPA states that the Commission may approve, by rule or order, a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential, and in

[1] Requests for interchange service are also called ''RFI.'' The NERC glossary defines ''Interchange'' as, ''Energy transfers that cross balancing authority boundaries.'' NERC Glossary of Terms Used in Reliability Standards (as revised) (glossary), originally filed with NERC's April 4, 2006 Request for Approval of Reliability Standards, Docket No. RM06–16–000, and affirmed by *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. and Regs. ¶ 31,242 (2007), *order on reh'g*, Order No. 693–A, 120 FERC ¶ 61,053 (2007). The glossary is appended to the Reliability Standards and is available on the NERC Web site, *http://www.nerc.com*.

[2] *See Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards*, Order No. 713, 73 FR 43613 (Jul. 28, 2008), 124 FERC ¶ 61,071, at P 67 (2008). Under NERC procedures, changes developed pursuant to an urgent action request must be reviewed under the normal Reliability Standards development process, by a panel having the appropriate expertise, and balloted for final approval, with any modifications, within one year, if no substantive changes are made, or else within two years. NERC states that the current revisions are not substantial enough to change the intent, scope or purpose of the prior versions of the Reliability Standards.

[3] The Commission is not proposing any new or modified text to its regulations. Rather, as set forth in 18 CFR Part 40, a proposed Reliability Standard will not become effective until approved by the Commission, and the Electric Reliability Organization (ERO) must post on its Web site each effective Reliability Standard.

[4] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o (2006).

[5] 16 U.S.C. 824o(e)(3).

[6] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[7] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006).

the public interest.[8] If the Commission disapproves of the proposed Standard in whole or in part, it must remand the proposed Standard to the ERO for further consideration.[9] Section 215(d)(5) grants the Commission authority, upon its own motion or upon complaint, to order the ERO to submit to the Commission a proposed Reliability Standard or a modification to a Reliability Standard that addresses a specific matter if the Commission considers such a modified Reliability Standard appropriate to carry out section 215.

B. Order No. 713

6. In Order No. 713, the Commission accepted a prior NERC proposal to provide additional time for entities in the Western Interconnection to assess requests for interchange service needed in less than an hour.[10] The resulting changes were incorporated into the prior INT Reliability Standards, designated INT–005–2, INT–006–2 and INT–008–2, which were accepted by the Commission.[11] The Commission found that, due to the limited assessment time available, some requested transactions were being denied because they were not reviewed and acted upon in the allotted time.[12] NERC's proposal was developed in response to an urgent action request from the Western Electricity Coordinating Council (WECC) to reinstate a ten-minute assessment period, consistent with WECC's historical practice.

7. In its current petition, NERC finalizes the revisions that were initially developed pursuant to the urgent action request.

C. NERC's Proposed INT Reliability Standard Revisions

8. On February 5, 2009, NERC filed its petition for Commission approval of the revised INT Reliability Standards, designated INT–005–3; INT–006–3 and INT–008–3.[13] In the revised INT Reliability Standards, NERC proposes to establish separate timing tables for the Western Interconnection and the Eastern Interconnection, including Electric Reliability Council of Texas and Hydro-Quebec; affirm and clarify the increase in the reliability assessment times for WECC from five minutes to ten minutes for requests submitted more than 60 minutes and no less than 15 minutes prior to ramp start time, and also permit on-time submittal of e-Tags[14] up to 20 minutes prior to the operating hour; specify the timing for responses to requests for the Western Interconnection; and modify Requirement R1 of INT–006–002 to clarify that balancing authorities and transmission service providers in all Interconnections must respond to ''on-time'' requests for interchange service, as well as to requests for emergency and reliability adjustment interchange services. NERC also proposes to add three related definitions to its glossary: ''After the Fact,'' ''Emergency Request for Interchange (RFI),'' and ''Reliability Adjustment RFI,'' and specifies appropriate responses for ''Late,'' ''On-time'' and ''After the Fact'' requests for service to the timing tables.

9. NERC states that the revised INT Reliability Standards (INT–005–3, INT–006–3, and INT–008–3) ensure the safe and reliable operation of the Bulk-Power System. According to NERC, the Reliability Standards improve Bulk-Power System reliability by providing WECC entities sufficient time to assess and respond to requests for interchange service. Establishing a separate timing table for WECC will clarify the timing requirements for the Western Interconnection. The timing requirements for the Eastern Interconnections, including ERCOT and Hydro-Quebec, are also modified by adopting the on-time, late and after-the-fact classifications. NERC reports that the new terms incorporated in the timing tables are consistent with existing industry e-Tag specifications used to request and arrange interchange service, and use of these terms will ensure uniform treatment for all entities subject to the INT Reliability Standards.

1. Proposed NERC Glossary Definitions

10. To implement the revisions to the INT Reliability Standards, NERC proposes to add three terms to its glossary:[15]

After the Fact: A time classification assigned to a Request for Interchange (RFI) when the submittal time is greater than one hour after the start time of the RFI.

Emergency Request for Interchange: RFI to be initiated [for] Emergency or Energy Emergency conditions.

Reliability Adjustment RFI: Request to modify an Implemented Interchange Schedule for reliability purposes.

2. Revised INT Reliability Standard Requirements

11. NERC proposes a separate interchange response timing table for WECC, while responsible entities in the Eastern Interconnections, including ERCOT and Hydro-Quebec, will continue to follow a table largely based on the prior versions. The tables set forth the response times for various requests for interchange service according to priority and time of submittal. The WECC-specific table reflects the increased reliability assessment time that was approved in Order No. 713. The expanded review time provides WECC entities ten minutes to respond to requests for interchange service submitted more than 60 minutes and no less than 15 minutes prior to ramp start time and also permits on-time submittal of e-Tags up to 20 minutes prior to the operating hour. NERC also makes minor textual modifications to clarify that all entities subject to the INT Reliability Standards must respond to ''on-time'' requests, as well as to all requests for emergency and reliability adjustment interchange service,[16] revises the tables to accommodate regions in which a response to arranged interchange is required, and clarifies INT–006–3, Measure M1 to correspond more closely to Requirement R1.

12. NERC requests that the revised INT Reliability Standards be effective on the first day of the quarter three months after regulatory approval is granted.[17]

3. Revised INT Reliability Standard Development

13. In response to WECC's February 7, 2007 urgent action request, NERC

[8] 16 U.S.C. 824o(d)(2).

[9] 16 U.S.C. 824o(d)(4).

[10] The INT Reliability Standards apply to interchange authorities, balancing authorities, and transmission service providers.

[11] Order No. 713, 124 FERC ¶ 61,071 at P 67.

[12] Upon expiration of the assessment time, the related e-Tags are denied and must be resubmitted. In industry parlance, this is called ''passive denial.'' Order No. 713, 124 FERC ¶ 61,071 at P 62–63.

[13] The revised INT Reliability Standards are provided in the petition and are available on the Commission's eLibrary document retrieval system in Docket No. RM09–8–000 and also on NERC's Web site, *http://www.nerc.com.*

[14] Electronic Tagging, or e-Tag, is a request to implement a new interchange transaction as a physical energy flow, *i.e.,* an RFI. The e-Tag documents the requested physical interchange transaction and identifies participants. E-Tags include expected flows, and the information provided may be used in mitigating constraints, when needed. *See* NERC's Joint Interchange Scheduling Work Group, Electronic Tagging Functional Specification Version 1.8.0 (Nov. 7, 2007).

[15] As with Reliability Standards, the Commission also reviews and approves revisions to the NERC glossary pursuant to FPA section 215(d)(2). Further, the Commission may direct a modification to address a specific matter identified by the Commission pursuant to section 215(d)(5). *See, e.g.,* Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 1893–98.

[16] INT–006–003, Requirement R1.

[17] The petition makes no modification to the violation risk factors or violation severity levels for the revised INT Reliability Standards. Therefore, the currently effective violation risk factors and violation severity levels will continue to apply.

developed the version 2 INT Reliability Standards that were approved by the Commission in Order No. 713. Shortly after receiving the urgent action request, WECC and a joint NERC/NAESB [18] work group submitted a Standards Authorization Request to NERC seeking permanent revisions to the INT Reliability Standards to accommodate the expanded WECC timing requirements. In developing the permanent revision, the version 2 INT Reliability Standard proposal was modified to incorporate the changes discussed above and the proposed glossary terms. After those revisions were made, the proposed INT Reliability Standards were approved by industry ballot and the NERC Board.

II. Discussion

14. The Commission proposes to approve Reliability Standards INT–005–3, INT–006–3 and INT–008–3 and related glossary terms, effective as proposed by NERC, as discussed below. INT–006–3, Requirement R1 requires communication between balancing authorities, transmission service providers and interchange authority regarding when to respond to a request for interchange service:

Requirement R1: Prior to the expiration of the reliability assessment period defined in the timing requirements tables in this standard, Column B, the Balancing Authority and the Transmission Service Provider shall respond to each On-time Request for Interchange (RFI), and to each Emergency RFI and Reliability Adjustment RFI from an Interchange Authority to transition an Arranged Interchange to a Confirmed Interchange.

15. INT–006–3 Requirement R1 cited above explicitly requires balancing authorities and transmission service providers to coordinate with interchange authorities concerning requests for interchange service. Balancing authorities and transmission operators must review proposed interchange transactions to ensure that transmission service is available and system limits will not be violated and inform the interchange authority whether a request may be confirmed.[19] Reliability coordinators and transmission service providers must review composite energy interchange transaction information to ensure that their systems can accommodate the energy, generation is available based on start-up characteristics, and the scheduling path is available on both the local and adjacent systems.

16. The revised INT Reliability Standards facilitate the reliable operation of the Bulk-Power System by providing WECC entities sufficient time to assess and respond to requests for interchange service and by clarifying timing requirements for all affected entities. The revisions finalize and improve upon the version 2 changes approved in Order No. 713. The Commission agrees that separating the WECC- and Eastern-Interconnection/ERCOT requirements in the timing tables adds clarity for entities operating in the WECC system. NERC's proposal retains slightly modified versions of the prior tables containing timing requirements for the Eastern Interconnection and ERCOT.

17. NERC's proposal incorporates one important change from the version 2 requirements. As written, INT–006–002, Requirement R1 requires responsible entities to ''respond to a request from an Interchange Authority to transition an Arranged Interchange to a Confirmed Interchange,'' suggesting that a response is required for all requests within the designated time periods. In version 3, the requirement clarifies that the applicable entity must respond to ''on-time'' requests for interchange service within a given time period, and also to all requests for Emergency interchange service and Reliability Adjustment interchange service.[20] Entities are required to respond to each of these latter two requests regardless of the timelines identified in the timing tables, with paperwork to follow later. Time classifications and deadlines apply to both initial arranged interchange submittals and any subsequent modifications to the arranged interchange.

18. In light of the fact that the revised INT Reliability Standards were developed to address the problem that it was impossible for WECC entities to respond to certain requests for interchange service in the given time frame, and that the underlying e-Tags for these requests would expire, the Commission finds the clarification acceptable. Responsible entities are still required to respond to all on-time requests for interchange service, as well as all requests for Emergency interchange service and Reliability Adjustment interchange service. Balancing authorities and transmission service providers do not have to respond to any other interchange service requests.

19. In Order No. 713, the Commission approved version 2 of the INT Reliability Standards, noting that NERC's compliance with the Order No. 693 directive to modify Reliability Standard INT–006–1, is ongoing.[21] While we propose to accept the current changes in light of NERC's efforts to modify the Reliability Standard, we remind NERC to ensure that the Commission's outstanding directives are addressed in future changes to the INT Reliability Standards. With this understanding, the Commission proposes to accept the revised INT Reliability Standards and associated glossary terms.

20. The Commission seeks comment on its proposal.

III. Information Collection Statement

21. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[22] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA) [23] requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons, or continuing a collection for which OMB approval and validity of the control number are about to expire.[24] The PRA defines the phrase ''collection of information'' to be the ''obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—(i) Answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on ten or more persons, other than agencies, instrumentalities, or employees of the United States; or (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes.'' [25]

22. This NOPR proposes to approve the revised INT Reliability Standards developed by NERC as the ERO. Section

[18] North American Energy Standards Board.

[19] *See* INT–005–3, Requirement R1; INT–006–3, Requirement R1 (Response to Interchange Authority).

[20] *See* INT–006–3, Measure M1.

[21] Order No. 713, 124 FERC ¶ 61,071 at P 67 (citing Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 866).

[22] 5 CFR 1320.11.

[23] 44 U.S.C. 3501–20.

[24] 44 U.S.C. 3502(3)(A)(i), 44 U.S.C. 3507(a)(3).

[25] 44 U.S.C. 3502(3)(A).

215 of the FPA authorizes the ERO to develop and enforce Reliability Standards that provide for an adequate level of reliability of the Bulk-Power System. Pursuant to the statute, the ERO must submit each Reliability Standard that it proposes to be made effective to the Commission for approval.[26] The proposed Reliability Standard revisions do not require responsible entities to file information with the Commission. But the Reliability Standards do require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities.

23. The proposed requirements are mainly concerned with the timing of responses to requests for service rather than the required documentation. The existing documentation requirements were established pursuant to OMB control number 1902–0244.[27] Under the existing requirements, affected entities were required to respond to all requests for service covered by the INT Reliability Standards. The proposed rule would clarify that entities need not respond to late requests for service (with exceptions for services needed for emergency or reliability purposes). Thus, the proposed rule does not establish any significant reporting obligations, but relieves affected entities of the burden of responding to late requests for service, other than requests for emergency or reliability service. The Commission does not consider this a significant burden.

24. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

Title: Revised Mandatory Reliability Standards for Interchange Scheduling and Coordination.

Action: Proposed Collection.

OMB Control No.: 1902–0244.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On occasion.

Necessity of the Information: This proposed rule would approve revised Reliability Standards to specify the times for entities to respond to requests for interchange service, and clarify that entities need not respond to late requests other than requests for emergency or reliability related service. The proposed rule would find the revisions just, reasonable, not unduly discriminatory or preferential, and in the public interest. In addition, this proposed rule would approve new glossary terms.

Internal Review: The Commission has reviewed the requirements pertaining to the revised Reliability Standards for the Bulk-Power System and determined that the proposed requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of internal review, that the revised requirements are not likely to increase the informational burden and that any resulting increase over existing requirements would be insignificant.

25. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Executive Director, Phone: (202) 502–8415, fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov*].

26. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–7345, fax: (202) 395–7285, e-mail: *oira_submission@omb.eop.gov*].

IV. Environmental Analysis

27. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[28] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. The actions proposed here fall within the categorical exclusion in the Commission's regulations for rules that are clarifying, corrective or procedural, for information gathering, analysis, and dissemination.[29] Accordingly, neither an environmental impact statement nor environmental assessment is required.

V. Regulatory Flexibility Act Certification

28. The Regulatory Flexibility Act of 1980 (RFA)[30] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Most of the entities to which the requirements of this rule would apply, *i.e.,* interchange authorities, balancing authorities and transmission service providers, do not fall within the definition of small entities.[31]

29. The proposed Reliability Standard revisions will not be a burden on the industry since most, if not all, of the applicable entities currently coordinate interchange information and the proposed Reliability Standard will simply provide a common framework for such coordination and responding to requests for service. Many, if not all, of the affected entities already have procedures in place to respond to requests for service and document such responses. Accordingly, the Commission certifies that the proposed INT Reliability Standard revisions will not have a significant adverse impact on a substantial number of small entities.

30. Based on this understanding, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Comment Procedures

31. The Commission invites interested persons to submit comments on the matters and issues proposed to be adopted in this notice, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due July 24, 2009. Comments must refer to Docket No. RM09–8–000, and must include the commenter's name, the organization

[26] *See* 16 U.S.C. 824o(d).

[27] This OMB control number was issued in Docket No. RM06–16–000, Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 1907.

[28] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, FERC Stats. & Regs., Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[29] 18 CFR 380.4(a)(5).

[30] 5 U.S.C. 601–12.

[31] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632 (2000). According to the SBA, a small electric utility is defined as one that has a total electric output of less than four million MWh in the preceding year.

they represent, if applicable, and their address in their comments.

32. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

33. Commenters unable to file electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

34. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

35. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

36. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

37. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov*.

List of Subjects in 18 CFR Part 40

Electric power; Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–14783 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0453]

RIN 1625–AA09

Drawbridge Operation Regulations; Great Egg Harbor Bay, Between Beesleys Point and Somers Point, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations that govern the operation of the US Route 9/Beesleys Point Bridge over Great Egg Harbor Bay, at mile 3.5, between Beesleys Point and Somers Point, NJ. This proposal would allow the drawbridge to operate on an advance notice basis during specific dates and times of the year. The proposed change would result in more efficient use of the bridge during dates and times of infrequent transit.

DATES: Comments and related material must be received by the Coast Guard on or before August 10, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0453 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

To avoid duplication, please use only one of these methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Sandra S. Elliott, Bridge Administration Branch, Fifth Coast Guard District, telephone 757–398–6557, e-mail *Sandra.S.Elliott@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0453), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2009–0453'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than, 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0453 in the Docket ID column. You may visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The Cape May County Department of Public Works (The County) is responsible for the operation of the U.S. Route 9 Bridge, at mile 3.5, across Great Egg Harbor Bay, between Beesleys Point and Somers Point, NJ. The County requested advance notification for vessel openings during specific dates and times of the year due to the infrequency of requests for vessel openings of the drawbridge.

The U.S. Route 9/Beesleys Point Bridge has a vertical clearance of eight feet above mean high water in the closed-to-navigation position. The existing operating schedule is set out in 33 CFR 117.5, which requires the drawbridge to open promptly and fully for the passage of vessels when a request to open is given.

Bridge opening data, supplied by the County, revealed minimal requests for vessel openings during periods of time that the County desires to have the bridge unmanned. The numbers of openings vary from a high number of openings during the summer months and a low number of openings during the winter season. Similarly, there are very few opening during the hours of darkness. (See Table)

IN-SEASON BRIDGE OPENINGS—MAY 15 TO SEPTEMBER 30

	2003	2004	2005	2006	2007	2008
12 a.m. to 6 a.m	5	6	6	4	4	0
10 p.m. to 6 a.m	5	10	7	10	10	4
8 p.m. to 6 a.m	25	22	16	22	18	18

OFF-SEASON BRIDGE OPENINGS—OCTOBER 1 TO MAY 14

	2003	2004	2005	2006	2007	2008
12 a.m. to 6 a.m	2	5	4	1	5	5
10 p.m. to 6 a.m	4	5	8	1	5	9
8 p.m. to 6 a.m	5	5	11	3	7	10

Due to the anticipated infrequency of requests for vessel openings of the drawbridge during these specific times and dates, the County requested to change the current operating regulation by requiring the draw of the bridge to open on signal, except from October 1 to May 14 from 8 p.m. to 6 a.m., and from May 15 to September 30 from 10 p.m. to 6 a.m., need open only if at least two hours notice is given.

The County requests an additional change to the operating regulations to allow the U.S. Route 9/Beesleys Point Bridge to operate on an advance notice on December 24 through December 26 of every year.

A review of the bridge logs supplied by the County for the past six years revealed that they have provided only one vessel opening within that time frame. The County requested to change the current operating regulations by requiring the draw span to open on signal if at least two hours notice is given from 8 p.m. on December 24 until and including 6 a.m. on December 26 of every year. This advance notice request coincides with other drawbridges operated by the County for the same dates in December.

The Coast Guard believes that all of the proposed changes are reasonable because the drawbridge would still open during specific dates and times after the advance notice is given.

The County will install a sign on both faces of the bascule span indicating the hours of operations and a two-hour advance notice when the bridge is unmanned. The sign would also list the County Public Works Department 24-hour telephone number at (609) 368–4591.

Discussion of Proposed Rule

The Coast Guard proposes to insert new regulations at 33 CFR § 117.722. The draw shall open on signal, except from October 1 through May 14 from 8 p.m. to 6 a.m., from May 15 through September 30, from 10 p.m. to 6 a.m., and from 8 p.m. on December 24 until 6 a.m. on December 26, the draw need open only if at least two hours notice is given.

The proposed change would result in more efficient use of the bridge during dates and times of infrequent transit.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statues or executive orders.

Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the proposed scheduled bridge openings, to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit the bridge from October 1 to May 14 from 8 p.m. to 6 a.m., from May 15 to September 30 from 10 p.m. to 6 a.m., and from 8 p.m. on December 24 until 6 a.m. on December 26.

This action will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the proposed scheduled bridge openings can minimize delay.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action.

Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do no individually or

cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. Add new § 117.722 to read as follows:

§ 117.722 Great Egg Harbor Bay.

The draw of the US Route 9/Beesleys Point Bridge, mile 3.5, shall open on signal, except from October 1 to May 14 from 8 p.m. to 6 a.m., from May 15 to September 30 from 10 p.m. to 6 a.m., and from 8 p.m. on December 24 until 6 a.m. on December 26, the draw need open only if at least two hours notice is given.

Dated:June 8,2009.

Fred M. Rosa, Jr.,

Rear Admiral, United States Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. E9–14747 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–1250; MB Docket No. 09–83; RM–11532].

Radio Broadcasting Services; Dubois, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, 47 CFR 73.202(b). The Commission requests comment on a petition filed by Lorenz E. Proietti. Petitioner proposes the allotment of FM Channel 242C2 at Dubois, Wyoming, as a first local service. Channel 242C2 can be allotted at Dubois in compliance with the Commission's minimum distance separation requirements with a site restriction of 6 km (3.8 miles) southwest of Dubois. The proposed coordinates for Channel 242C2 at Dubois are 43–29–59 North Latitude and 109–41–17 West Longitude.

DATES: Comments must be filed on or before July 27, 2009, and reply comments on or before August 11, 2009.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve petitioner's counsel as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, Seventh Floor, McLean, Virginia 22102–3807.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 09–83, adopted June 3, 2009, and released June 5, 2009. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Dubois, Channel 242C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E9–14840 Filed 6–23–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 071025620–9075–01]

RIN 0648–AW19

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery off the Southern Atlantic States; Amendment 7

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 7 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For South Atlantic rock shrimp, this proposed rule would rename the rock shrimp permit and endorsement; require all South Atlantic shrimp permit holders to provide economic data if selected; reinstate all limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement; remove the 15,000–lb (6,804–kg) rock shrimp landing requirement; and reinstate all limited

access rock shrimp endorsements lost due to not meeting the landing requirement.

DATES: Written comments on this proposed rule must be received no later than 5 p.m., Eastern time, on July 24, 2009.

ADDRESSES: You may submit comments on the proposed rule, identified by ''0648–AW19'', by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- *Fax:* 727–824–5308, Attn: Kate Michie.
- *Mail:* Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov*, enter ''NOAA-NMFS–2008–0319'' in the keyword search, then check the box labeled ''Select to find documents accepting comments or submissions'', then select ''Send a Comment or Submission.'' NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 7 may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone: 843–571–4366 or 866–SAFMC–10 (toll free); fax: 843–769–4520; e-mail: safmc@safmc.net. Amendment 7 includes an Environmental Assessment, an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Jason Rueter, Southeast Regional Office, NMFS, and to David Rostker, OMB, by e-mail at *David_Rostker@omb.eop.gov*, or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727–824–5305, fax: 727–824–5308.

SUPPLEMENTARY INFORMATION: The shrimp fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

According to the Deepwater Shrimp Advisory Panel (AP), the rock shrimp fishery has changed substantially since the limited access endorsements were first required. The fleet dynamics have changed due to economic factors including fluctuating fuel prices and operating expenses, and imported shrimp products. To address issues raised by the AP, the Council developed Amendment 7 to the FMP.

Rename Permits and Endorsements

Currently, a ''commercial vessel permit for rock shrimp'' is required to fish in the exclusive economic zone (EEZ) off North Carolina and off South Carolina. A vessel with that permit and a ''limited access endorsement for South Atlantic rock shrimp'' may fish in the EEZ off those states and off Georgia and Florida. This terminology has been confusing and may have led to some limited access endorsements being terminated because they were not renewed in a timely manner. This rule would rename the current limited access endorsement as ''Rock Shrimp Permit (South Atlantic EEZ)'', which would allow fishing throughout the South Atlantic EEZ and would be available only to those vessels initially issued endorsements for the fishery, or their successor. The rule would also rename the current rock shrimp permit as ''Rock Shrimp Permit (Carolinas Zone)'', which would allow fishing for rock shrimp in the EEZ off North Carolina and South Carolina.

During an implementation period of from 2 to 3 months, the Regional Administrator, Southeast Region, NMFS, (RA) would replace a currently valid permit or endorsement with the appropriate new permit without the necessity of an application from a vessel owner. However, a renewal application would be required for a permit or endorsement that expired during the implementation period. Such renewal would be for the appropriate new permit. No transfers of existing endorsements would be allowed after the date that is 30 days after the effective date of the final rule implementing Amendment 7. After the implementation period, the old permits and endorsements would not be valid, and transfers of the new permit would be allowed according to the regulations.

Economic Data Collection

A need exists to acquire economic data from shrimp permit holders off the southern Atlantic states. Such data would allow NMFS to conduct the analyses required by the Magnuson-Stevens Act and other applicable law and assist the Council to fully understand how proposed management measures would impact shrimp fishermen and dealers. Accordingly, this rule would require owners or operators of vessels participating in the South Atlantic rock shrimp and penaeid shrimp fisheries, who are selected by NMFS, to provide basic economic data via an annual survey form. This information would include, but not be limited to, such information as vessel identification, gear, effort, amount of shrimp caught by species, shrimp condition (heads on or off), fishing areas, person to whom shrimp were sold, and variable and fixed costs.

Renewal in a Timely Manner

Current regulations specify that the RA will not reissue a limited access endorsement for South Atlantic rock shrimp if the RA does not receive a complete application for renewal within 1 year after the endorsement's expiration date. Indications are that a number of individuals did not renew their endorsements when they renewed their rock shrimp permits because they did not understand that both the endorsement and the permit had to be renewed. This proposed rule would reinstate all limited access endorsements, as a Rock Shrimp Permit (South Atlantic EEZ), for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement. The rule would also require vessel owners eligible to have their limited access endorsements reinstated to apply for a Rock Shrimp Permit (South Atlantic EEZ) within one year after the effective date of the final rule for this amendment.

Eliminating the Rock Shrimp Landing Requirement

Currently, a limited access endorsement for South Atlantic rock shrimp that is inactive for a period of four consecutive calendar years will not be renewed. ''Inactive'' means that the vessel with the endorsement has not landed at least 15,000 lb (6,804 kg) of rock shrimp from the South Atlantic EEZ in a calendar year. The Council is concerned that maintaining the current

landing requirement will result in a permanent, significant, and unnecessary reduction in the South Atlantic rock shrimp fleet size. Reduction of effort is not biologically required as current catches are far below the maximum fishing mortality threshold. Accordingly, this rule would remove the 15,000–lb (6,804–kg) landing requirement.

Reinstatement of Lost Endorsements

All endorsements lost due to not meeting the 15,000–lb landing requirement would be reinstated. The amendment states the vessels of particular concern are those that initially obtained their limited access rock shrimp endorsements in 2003 as they would have needed to land at least 15,000 lbs of rock shrimp in at least one calender year between 2004 and 2007.

Availability of Amendment 7

Additional background and rationale for the measures discussed above are contained in Amendment 7 and its supporting EA. The availability of Amendment 7 was announced in the **Federal Register** on June 1, 2009 (74 FR 26170). Written comments on Amendment 7 must be received by July 31, 2009. All comments received on Amendment 7 or on this proposed rule during their respective comment periods will be addressed in the preamble of the final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the AA has determined that this proposed rule is consistent with Amendment 7, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

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

The Magnuson-Stevens Act provides the statutory basis for the proposed rule. The proposed rule would rename the rock shrimp permit and endorsement, require all South Atlantic shrimp permit holders to provide economic data if selected, reinstate all limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement, remove the 15,000–lb (6,804–kg) rock shrimp landing requirement, and reinstate all limited access rock shrimp endorsements lost due to not meeting the landing requirement. The purposes of this proposed rule are to ensure that sufficient effort remains active to sustain the fishery and its infrastructure and the Council has necessary economic data to satisfy requirements under the Magnuson-Stevens Act and other statutes.

No duplicative, overlapping or conflicting Federal rules have been identified.

Within the South Atlantic shrimp fisheries, vessels may possess one or more of the following Federal permits: a penaeid shrimp permit, an open access rock shrimp permit, and a limited access rock shrimp endorsement. At present, 266 open access rock shrimp permits, 620 penaeid shrimp permits, and 155 limited access rock shrimp endorsements have been issued. Of the 155 limited access rock shrimp endorsements, 125 are currently active or renewable and 30 have been terminated. The total number of vessels that possess one or more of these permits or endorsements is 694 and thus this is the maximum number of vessels that could be directly impacted by the actions considered in this proposed rule. Of these 694 vessels, 293 vessels also possess Gulf shrimp moratorium permits and therefore only 401 vessels are unique to the South Atlantic shrimp fisheries.

The fleet of vessels with limited access rock shrimp endorsements is fairly homogeneous with respect to its physical characteristics. The average or typical vessel in this fleet is approximately 20 years old, nearly 73 ft (22.3 m) in length, gross tonnage of 132 tons, with a fuel capacity of approximately 16,000 gallons (60,567 liters), and a hold capacity of more than 63,000 lb (28,576 kg) of shrimp. The average vessel typically uses four nets averaging between 55 and 60 ft (17.2–18.3 m) in length and uses between three and four crew on each trip. More than 90 percent of these vessels are large (60 ft (18.3 m) in length or greater) while less than 9 percent are small (less than 60 ft (18.3 m) in length). More than 87 percent of these vessels have on-board freezing capacity. More than two-thirds of these vessels have steel hulls, while the other vessels are nearly equally split between fiberglass and wood hulls.

Of the 155 vessels with limited access rock shrimp endorsements, 145 were commercially fishing at some point between 2003 and 2007 and thus 10 vessels with endorsements were not commercially active during these years. All of the commercially inactive vessels are in fact state registered boats that are older, smaller, and less powerful than the average vessel in the fleet. Between 2003 and 2007, commercially active vessels with endorsements averaged nearly $284,000 in total revenue per year.

These vessels' dependence on landings from the South Atlantic rock shrimp fishery was relatively low as, on average, they only accounted for seven percent of total revenue during this time. These vessels were most dependent on revenue from the Gulf shrimp fishery, which, on average, accounted for nearly 46 percent of their total revenue. Revenue from South Atlantic penaeid shrimp landings and Northeast non-shrimp landings were also important, with each representing approximately 22 percent of their total revenue on average. The vast majority of the Northeast non-shrimp revenue came from Atlantic sea scallop landings. Thus, although South Atlantic rock shrimp landings were not unimportant to these vessels' operations, they were considerably more dependent on other fisheries.

The fleet of 694 vessels that possess one or more South Atlantic shrimp permits or endorsements is very heterogeneous with respect to its physical characteristics. For example, approximately 65 percent of the vessels are large while 35 percent are small. Less than 40 percent have on-board freezing capacity while nearly 60 percent rely on ice for storage purposes. With respect to their hulls, the fleet is approximately evenly split between steel, wood, and fiberglass. On average, this group of vessels is somewhat smaller, older, less technologically advanced and uses less crew and gear relative to vessels that only possess limited access rock shrimp endorsements. Related, between 2003 and 2007, the average total revenue per vessel was $185,000, or 35 percent less than vessels that only possess a limited access rock shrimp endorsement. Further, revenue from the Gulf shrimp, Northeast non-shrimp, and South Atlantic penaeid shrimp fisheries have accounted for 36 percent, 31 percent and 24 percent of total revenues on average during this time. During this time period, the maximum total revenue

for a single vessel was approximately $3.7 million.

With respect to the 401 vessels that possess one or more South Atlantic shrimp permits or endorsements and do not possess a Gulf shrimp moratorium permit, they are also fairly heterogeneous with respect to their physical characteristics. However, on average, they are smaller, older, less technologically advanced and use less crew and gear than the fleet as a whole, and even more so compared to the vessels that only possess a limited access rock shrimp endorsement. For example, nearly 56 percent of these vessels are small, only 10 percent have on-board freezing capacity, and less than 18 percent have steel hulls. Related, between 2003 and 2007, the average total revenue per vessel was only about $135,000, or 27 percent less than the fleet as a whole and 53 percent less than vessels that only possess a limited access rock shrimp endorsement. Since these vessels do not possess a Gulf shrimp moratorium permit and thus cannot participate in the Federal Gulf shrimp fishery, approximately 40 percent of their total revenue comes from both the South Atlantic shrimp and Northeast non-shrimp fisheries respectively, with 15 percent coming from South Atlantic non-shrimp fisheries.

The Small Business Administration defines a small business in the commercial fishing industry as an entity that is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million annually (NAICS codes 114111 and 114112, finfish and shellfish fishing). Based on the annual revenues for the fishery provided above, all shrimp vessels expected to be directly impacted by this proposed rule are determined, for the purpose of this analysis, to be small entities.

The action to remove the 15,000–lb (6,804–kg) landing requirement will directly affect 27 vessels with active or renewable endorsements, the action to reinstate limited access rock shrimp endorsements lost due to not meeting the landing requirement will directly affect 43 vessels with active or renewable endorsements, the action to reinstate limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement will directly affect 5 vessels with terminated endorsements, and the action to rename the rock shrimp permit and endorsement will directly affect all 125 vessels with active or renewable endorsements and 5 vessels with terminated endorsements. In general, the action to require all South Atlantic shrimp permit holders to provide economic data if selected would apply to all 694 vessels with a South Atlantic penaeid or rock shrimp permit or endorsement. However, since 293 of these vessels possess a Gulf shrimp moratorium permit and therefore must already comply with economic data reporting requirements in that fishery, only 401 vessels will be directly affected by this action. Thus, NMFS determines that this proposed rule will affect a substantial number of small entities.

The action to remove the 15,000–lb (6,804–kg) landing requirement is expected to directly benefit at least 27 vessels by allowing them to retain their limited access rock shrimp endorsements. Under current regulations, these vessels would be expected to lose their endorsements. By retaining their endorsements, these vessels are able to retain the market value of their endorsements, which is estimated to be $5,000. Further, they will retain their ability to participate in the fishery, which in the short term is expected to increase these vessels' average total revenue by only $600 per vessel but could be greater in the long term if they increase their level of participation in the fishery.

The action to reinstate limited access rock shrimp endorsements lost due to not meeting the landing requirement is expected to directly benefit 43 vessels by allowing them to retain their limited access rock shrimp endorsements. Under current regulations, these vessels would lose their endorsements. By retaining their endorsements, these vessels are able to retain the market value of their endorsements, which is estimated to be $5,000. Further, they will retain their ability to participate in the fishery, which in the short term is expected to increase these vessels' average total revenue by $4,600 per vessel but could be greater in the long term if they increase their level of participation in the fishery.

The action to reinstate limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement is expected to directly benefit five vessels by reinstating their endorsements. At present, these vessels' endorsements have been terminated and thus cannot be used to participate in the fishery and in turn have no market value. Reinstatement of these endorsements will allow these vessels to regain the market value of their endorsements, which is estimated to be $5,000. Further, they will regain their ability to participate in the fishery, which in the short term is expected to increase these vessels' average total revenue by $6,000 per vessel but could be greater in the long term if they increase their level of participation in the fishery.

The action to rename the rock shrimp permit and endorsement is expected to directly benefit 130 vessels by reducing the number of permits these vessels must possess and pay for in order to participate in the limited access rock shrimp fishery. The annual benefit is only $10 per vessel and is therefore minimal.

The action to require all South Atlantic shrimp permit holders to provide economic data if selected is expected to adversely affect 401 vessels by requiring a sample to provide economic data on an annual basis. However, this reporting requirement would only impose an annual opportunity cost of approximately $15 per vessel. Therefore, this action is not expected to increase these vessels' operating costs and, thus, would not be expected to decrease their profits.

Three alternatives, including the status quo, were considered for the action to remove the 15,000–lb (6,804–kg) rock shrimp landing requirement. The first alternative, the status quo, would retain the landing requirement. In the long term, retention of the landing requirement would be expected to significantly and permanently reduce the maximum fleet size in the rock shrimp fishery. Specifically, the maximum fleet size under this alternative would only be approximately 37 percent of the Council's desired fleet size and 44 percent of its current fleet size. Such a result would be inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure. The second alternative to the proposed removal of the landing requirement would have reduced the landing requirement from 15,000 lb (6,804 kg) in at least one out of every four calendar years to 7,500 lb (3,402 kg) in at least one out of every four calendar years. Although this represents a 50–percent reduction in the landings requirement, few additional vessels would be able to meet this requirement relative to the 15,000–lb (6,804–kg) requirement. Therefore, similar to the status quo, this alternative would result in a significant and permanent reduction in the rock shrimp fishery's long-term maximum fleet size. Specifically, the maximum fleet size under this alternative would only be

approximately 39 percent of the Council's desired fleet size and 47 percent of its current fleet size. Such a result would be inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure.

Three alternatives, including the status quo, were considered for the action to reinstate endorsements lost due to not meeting the 15,000–lb (6,804–kg) rock shrimp landing requirement at the end of the 2007 calendar year. The first alternative, the status quo, would not reinstate endorsements lost due to not meeting the 15,000–lb (6,804–kg) rock shrimp landing requirement at the end of the 2007 calendar year. Of the 125 vessels currently possessing active or renewable endorsements, 83 vessels were required to meet the landing requirement by the end of the 2007 calendar year. However, 43 vessels did not meet the landing requirement and thus their endorsements are not eligible for renewal. Upon these endorsements' termination, the maximum fleet size would be permanently reduced from 125 vessels to 82 vessels. Such a significant and permanent reduction in the maximum fleet size would be inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure. The second alternative considered for this action would reinstate endorsements to vessels landing at least 7,500 lb (3,402 kg) of rock shrimp in one of four consecutive calendar years. This alternative would only allow three more vessels with active or renewable endorsements to remain in the fishery relative to the no-action alternative. Hence, this alternative did not adequately address the Council's objective.

Three alternatives, including the status quo, were considered for the action to reinstate endorsements lost through failure to renew for vessels that renewed their open access permits. The first alternative, the status quo, would not reinstate endorsements that were lost through failure to renew for vessels that renewed their open access permits. At present, an open access permit is needed to harvest rock shrimp in the EEZ off of North and South Carolina while both the open access permit and the limited access endorsement are needed to harvest rock shrimp in the EEZ off of Georgia and east Florida. Five vessels that previously possessed endorsements renewed their open access permits but failed to simultaneously renew their endorsements. By renewing their open access permits, these vessels indicated that they intended to continue participating in the fishery in the future. Their failure to renew their endorsements at the same time may have been the result of confusion over the application and renewal process associated with the open access permit and the limited access endorsement. The Council does not consider the permanent loss of these endorsements to be an equitable outcome. Further, the unintended loss of these endorsements from the fishery is inconsistent with the Council's objective of retaining sufficient productive capacity in order to support the onshore infrastructure. The second alternative would extend the time allowed to renew endorsements by one calendar year after the effective date of this action. The outcome of this alternative is uncertain as it is dependent on whether the five affected vessel owners take the proper actions, including independently determining their permit status and requesting and submitting the required forms, within the specified time period. Any vessel owners that did not would not have their vessels' endorsements reinstated, which in turn would result in an unintended and undesired reduction in the maximum fleet size and thus this alternative is also potentially inconsistent with the Council's objective of retaining sufficient productive capacity in order to support the onshore infrastructure.

Two alternatives, including the status quo, were considered for the action to rename the rock shrimp permit and endorsement. At present, an open access permit is needed to harvest rock shrimp in the EEZ off of North and South Carolina while both the open access permit and the limited access endorsement are needed to harvest rock shrimp in the EEZ off of Georgia and east Florida. Five vessels have already lost their endorsements possibly due to confusion associated with the current naming practice and more could be lost in the future. This unintended loss of additional endorsements from the fishery in the future possibly due to vessel owners' confusion with the current naming practice is inconsistent with the Council's objective of retaining sufficient productive capacity in order to support the onshore infrastructure.

Two alternatives, including the status quo, were considered for the action to specify VMS requirements for owners of vessels with limited access rock shrimp endorsements. The alternative to require VMS verification for all vessels with limited access endorsements, which would include those not operating in South Atlantic waters, could cause some vessel owners to relinquish their limited access endorsements, particularly those whose vessels are very small by industry standards and thus technologically incapable of supporting a VMS. Twenty-one vessels would be impacted by this alternative possibly resulting in additional reductions in the number of limited access endorsements. This is inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure.

Three alternatives, including the status quo, were considered for the action to require all South Atlantic shrimp permit holders to provide economic data if selected. The first alternative, the status quo, would not require South Atlantic shrimp permit holders to provide economic data. At present, economic data are lacking for the South Atlantic shrimp fisheries. The lack of such data makes it difficult for the Council to conduct regulatory impacts analyses that meet the requirements of the Magnuson-Stevens Act, National Environmental Protection Act, the Regulatory Flexibility Act, E.O. 12866, and other Federal statutes. Further, the reauthorized version of the Magnuson-Stevens Act explicitly states that all fishery management plans must indicate all economic information necessary to meet the requirements of the Act. Thus, these data are needed in order for the Council to comply with these various mandates. Furthermore, the lack of such data can lead to potentially misleading information and guidance. Such misinformation can adversely affect decisions made by the Council and NMFS and thereby lead to unforeseen and unintended adverse economic and social consequences on fishery participants. The second alternative would require all shrimp permit holders to provide economic data each year. In effect, this alternative would require a census rather than a sample of permit holders to provide the necessary economic data. A census of permit holders is not required to provide statistically accurate and reliable estimates of important economic variables for the fishery and thus would constitute an unnecessarily onerous time burden on fishery participants.

Copies of the RIR and IRFA are available from NMFS (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork

Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to the PRA applicable to vessels in the South Atlantic shrimp fishery. The proposed rule would require owners or operators of South Atlantic shrimp vessels, who are selected by NMFS, to complete and submit an annual survey form that provides basic economic data including, but not limited to vessel and gear information, effort, amount of shrimp caught by species, areas fished, variable and fixed costs, and person to whom shrimp are sold. This requirement has been submitted to OMB for approval. The public reporting burdens for this collection of information is estimated to average 45 minutes per response. This estimate of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 18, 2009.

Samuel D. Rauch III,

Deputy Assistant Adminstrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, in the first sentence of paragraph (g)(1), the words ''commercial vessel permit for South Atlantic rock shrimp'' are removed and the words ''Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ)'' are added in their place, and paragraph (a)(2)(viii) is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(viii) *South Atlantic rock shrimp.* (A) Until the 27th day of the second month after the effective date of the final rule implementing Amendment 7 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (Amendment 7), the permit requirements specified in paragraphs (a)(2)(viii)(A)(*1*) and (*2*) of this section apply.

(*1*) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ or possess rock shrimp in or from the South Atlantic EEZ, a commercial vessel permit for rock shrimp must be issued to the vessel and must be on board. (See paragraph (a)(5) of this section for the requirements for operator permits for the South Atlantic rock shrimp fishery.)

(*2*) In addition, for a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off Georgia or off Florida, a limited access endorsement for South Atlantic rock shrimp must be issued to the vessel and must be on board. See § 622.19 for limitations on the issuance, transfer, renewal, and reissuance of a limited access endorsement for South Atlantic rock shrimp.

(B) During the second month following the effective date of the final rule to implement Amendment 7, and prior to the 26th day of the second month after that effective date, a currently valid (not expired) commercial vessel permit for rock shrimp with an expiration date greater than the 27th day of the second month after that effective date that does not have a limited access endorsement for South Atlantic rock shrimp will be replaced by the RA with a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone), and a currently valid (not expired) commercial vessel permit for rock shrimp with an expiration date greater than the 27th day of the second month after that effective date that has a limited access endorsement for South Atlantic rock shrimp will be replaced by the RA with a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ). However, a person with an expired limited access endorsement for South Atlantic rock shrimp who desires a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must apply for such a permit before the date 1 year after the expiration date of the expired limited access endorsement for South Atlantic rock shrimp.

(C) On and after the 27th day of the second month after the effective date of the final rule implementing Amendment 7, the permit requirements specified in paragraphs (a)(2)(viii)(C)(*1*) and (*2*) of this section apply.

(*1*) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off North Carolina or off South Carolina or possess rock shrimp in or from the South Atlantic EEZ off those states, a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must be issued to the vessel and must be on board.

(*2*) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must be issued to the vessel and must be on board. A Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) is a limited access permit. See § 622.19(b) for limitations on the issuance, transfer or renewal of a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ).

(D) The provisions of paragraph (f) of this section notwithstanding, neither a commercial vessel permit for rock shrimp nor a limited access endorsement for South Atlantic rock shrimp remains valid on or after the 27th day of the second month after the effective date of the final rule to implement this measure.

* * * * *

3. In § 622.5, paragraph (a)(1)(vii) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(1) * * *

(vii) *South Atlantic shrimp.* The owner or operator of a vessel that fishes for shrimp in the South Atlantic EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide information for any fishing trip, as requested by the SRD, including, but not limited to, vessel identification, gear, effort, amount of shrimp caught by species, shrimp condition (heads on/

heads off), fishing areas and depths, and person to whom sold.

* * * * *

4. In § 622.9, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirements for use of a VMS*—(1) *South Atlantic rock shrimp.* An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. * * *

* * * * *

5. Section 622.19 is revised to read as follows:

§ 622.19 South Atlantic rock shrimp limited access off Georgia and Florida.

(a) *Initial applicability*—(1) The measures in paragraph (a) of this section are applicable on the effective date of the final rule to implement Amendment 7 through the 26th day of the second month after that effective date.

(2) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off Georgia or off Florida, a limited access endorsement for South Atlantic rock shrimp must be issued to the vessel and must be on board.

(3) A limited access endorsement for South Atlantic rock shrimp is valid only for the vessel and owner named on the permit/endorsement. To change either the vessel or the owner, a complete application for transfer must be submitted to the RA. An owner of a vessel with an endorsement may request that the RA transfer the endorsement to another vessel owned by the same entity, to the same vessel owned by another entity, or to another vessel with another owner. A transfer of an endorsement under this paragraph will include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to a new owner; no partial transfers are allowed. No transfer of a limited access endorsement for South Atlantic rock shrimp will be allowed after the date 30 days after the effective date of the final rule implementing Amendment 7.

(4) The RA will not reissue a limited access endorsement for South Atlantic rock shrimp if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(b) *Subsequent applicability*—(1) The measures in paragraph (b) of this section are applicable on and after the 27th day of the second month after the effective date of the final rule that implements Amendment 7.

(2) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, a Commercial Permit for Rock Shrimp (South Atlantic EEZ) must be issued to the vessel and must be on board.

(3) Applications. No applications for additional Commercial Vessel Permits for Rock Shrimp (South Atlantic EEZ) will be accepted, except as follows:

(i) *Failure to renew.* An owner of a vessel may apply for a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) and such permit will be issued provided the owner,

(A) Had a limited access endorsement for South Atlantic rock shrimp;

(B) Failed to request renewal of his or her endorsement within 1 year after the endorsement's expiration date; and

(C) Renewed his or her commercial vessel permit for rock shrimp within 1 year after its expiration date.

(ii) *Inactive endorsement.* An owner of a vessel may apply for a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) and such permit will be issued provided the owner,

(A) Has a commercial vessel permit for rock shrimp;

(B) Had a limited access endorsement for South Atlantic rock shrimp and;

(C) Was unable to renew the endorsement because the endorsement was ''inactive'' for a period of 4 consecutive calendar years. ''Inactive'' means that the vessel with the endorsement did not land at least 15,000 lb (6,804 kg) of rock shrimp from the South Atlantic EEZ in a calendar year.

(iii) *Application period.* Applications under paragraph (b)(3) of this section will only be accepted from the 27th day of the second month after the effective date of the final rule that implements Amendment 7 through the date 1 year after that date.

(iv) *Continuity of ownership.* An applicant who believes he or she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his or her continuity of ownership.

(c) *Transfer of an existing permit.* A Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, a complete application for transfer must be submitted to the RA. An owner of a vessel with a permit may request that the RA transfer a valid permit to another vessel owned by the same entity, to the same vessel owned by another entity, or to another vessel with another owner. A transfer of a permit under this paragraph will include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to a new owner; no partial transfers are allowed.

(d) *Renewal.* The RA will not reissue a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) if the permit is revoked or if the RA does not receive a complete application for renewal of the permit within 1 year after the expiration date of the permit.

(e) *Limitation on permits.* A vessel for which a permit for South Atlantic rock shrimp is required may be issued either a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ), depending on its eligibility. However, no such vessel may be issued both permits for the same period of effectiveness.

[FR Doc. E9–14880 Filed 6–23–09; 8:45 am]

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Notices

Federal Register

Vol. 74, No. 120

Wednesday, June 24, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 18, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Special Needs Request Under the Plant Protection Act.

OMB Control Number: 0579–0291.

Summary of Collection: The Plant Protection Act (PPA) (7 U.S.C. 7701 *et. seq.*) gives authority to the Secretary of Agriculture to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of plant pests or noxious weed into the United States. The Animal and Plant Health Inspection Service (APHIS) amended its domestic quarantine regulations to establish a process by which a State or political subdivision of a State could request approval to impose prohibitions or restrictions on the movement in interstate commerce of specific articles that are in addition to the prohibitions and restrictions imposed by APHIS. 7 CFR 301.1 through 301.1–3, ''Subpart-Special Need Request'' APHIS sets out procedures for the criteria, action, and submission of a special need request.

Need and Use of the Information: APHIS believes that specific information, which would be considered along with more general information available to APHIS, would be necessary for the Administrator to be able to determine whether to grant or deny a request for a special need exemption. The administrator's determination would be based upon his or her review of the information submitted by the State or political subdivision in support of its request and would take into account any comments received.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 10.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,600.

Animal and Plant Health Inspection Service

Title: PPQ Form 816; Contract Pilot and Aircraft Acceptance.

OMB Control Number: 0579–0298.

Summary of Collection: The Plant Protection Act (7 U.S.C. 7701 *et. seq.*) directs the Secretary of Agriculture to carry out a program, subject to available funds, to control grasshoppers and Mormon crickets on all Federal lands to protect rangeland. The Animal and Plant Health Inspection Service (APHIS) carries out this program primarily by treating infested lands by aerial spraying of pesticides from aircraft.

Need and Use of the Information: Contract Pilot and Aircraft Acceptance Form (PPQ–816) is used by the Plant Protection and Quarantine personnel who are involved with contracts for aerial application services for emergency pest outbreaks. The form is used to document that the pilot and aircraft meet contract specifications.

Description of Respondents: Individuals or households.

Number of Respondents: 15.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–14774 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program—Supplemental Nutrition Assistance for Victims of Disasters.

OMB Control Number: 0584–0336.

Summary of Collection: The authority to operate the Disaster Supplemental Nutrition Assistance Program (D–SNAP) is found in section 5(h) of the Food and Nutrition Act of 2008, formerly the Food Stamp Act of 1977, as amended and the Disaster Relief Act of 1974, as amended by the Robert T. Stafford Disaster Relief and Assistance Act of 1988 authorizes the Secretary of Agriculture to establish temporary emergency standards of eligibility for victims of a disaster if the commercial channels of food distribution have been disrupted, and subsequently restored. Section 11(e)(14) of the Food and Nutrition Act authorizes the Secretary to require State agencies to develop a plan of operation that includes procedures for informing the public about the D–SNAP, including how to apply for benefits, coordination with Federal and private disaster relief agencies and local government officials, developing application procedures to reduce hardship and inconvenience and deter fraud, and instruct caseworkers in procedures for implementing and operating the DFSP.

Need and Use of the Information: This information collection concerns information obtain from State welfare agencies seeking to operate D–SNAP. A State agency request to operate a D–SNAP must contain the following information: Procedures for promptly assessing the geographical limits of the areas in need of D–SNAP assistance; household responsibilities; a description of post-disaster reviews; procedures to inform both the general public and households already certified under the disaster program if the operation of the D–SNAP is extended; procedures to issue benefits during a disaster; and procedures to coordinate with other State agencies to obtain additional workers and other personnel if needed to supplement the State agency's regular staff.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 14.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 140.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–14850 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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Foreign Agricultural Service

Title: Foreign Market Development Cooperator Program (FMDCP) and Market Access Program (MAP).

OMB Control Number: 0551–0026.

Summary of Collection: The basic authority for the Foreign Market Development Cooperator Program (FMDCP) is contained in Title VII of the Agricultural Trade Act of 1978, 7 U.S.C. 5721, *et seq.* Program regulations appear at 7 CFR part 1484. Title VII directs the Secretary of Agriculture to ''establish and, in cooperation with eligible trade organization, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.'' The primary objective of the Market Access Program (MAP) is to encourage the development, maintenance and expansion of commercial export markets for U.S. agricultural products through cost-share assistance to eligible trade organizations that implement a foreign market development program. The programs are administered by personnel of the Foreign Agricultural Service (FAS).

Need and Use of the Information: The collected information will be used by FAS to manage, plan, evaluate, and account for government resources. Specifically, data is used to assess the extent to which: applicant organizations represent U.S. commodity interests; benefits derived from market development effort will translate back to the broadest possible range of beneficiaries; the market development efforts will lead to increases in consumption and imports of U.S. agricultural commodities; the applicant is able and willing to commit personnel and financial resources to assure adequate development, supervision and execution of project activities; and private organizations are able and willing to support the promotional program with aggressive marketing of the commodity in question. Without the collected information the program could not be implemented.

Description of Respondents: Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 71.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 91,070.

Foreign Agricultural Agency

Title: Emergency Relief from Duty-Free Imports of Perishable Products Under the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

OMB Control Number: 0551–0033.

Summary of Collection: The Andean Trade Preference Act (the Act) (19 U.S.C. 3201 *et seq.*) was signed into law on December 4, 1991 and expired December 4, 2001. Section 3104 of H.R. 3009, the ''Trade Act of 2002'' amended section 208(b) of the Act to extend the termination date to December 31, 2006, retroactive to December 4, 2001. The Act authorizes the President to provide duty-free treatment to imports from Bolivia, Colombia, Ecuador, and Peru, except for those few products specifically excluded. Section 204(d) provides, in part, that a petition for emergency import relief may be filed with the Secretary of Agriculture at the same time a petition for import relief is filed with the United States International Trade Commission (ITC). Emergency import relief is limited to restoration of MFN tariffs during the period of the ITC's investigation.

Need and Use of the Information: The Foreign Agricultural Service will collect the following information to be included in a petition: a description of the imported perishable product concerned; country of origin of imports; data indicating increased imports are a substantial cause of serious injury to the domestic industry producing a like or directly competitive product; evidence of serious injury; and a statement indicating why emergency action would be warranted. The information collected provides essential data for the Secretary regarding specific market conditions with respect to the industry requesting emergency relief.

Description of Respondents: Business or other for-profit; Individuals or households.

Number of Respondents: 1.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 23.

Foreign Agricultural Service

Title: Technical Assistance for Specialty Crops Program.

OMB Control Number: 0551–0038.

Summary of Collection: The Technical Assistance for Specialty Crops (TASC) program is authorized by Section 3205 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171). This section provides that the Secretary of Agriculture shall establish a program to address unique barriers that prohibit or threaten the export of U.S. specialty crops. The Foreign Agricultural Service (FAS) administers the program for the Commodity Credit Corporation. The TASC is designed to assist U.S. organizations by providing funding for projects that address sanitary, phytosanitary, and technical barriers that prohibit or threaten the export of U.S. specialty crops.

Need and Use of the Information: FAS collects data for fund allocation, program management, planning and evaluation. FAS will collect information from applicant desiring to receive grants under the program to determine the viability of requests for funds. The program could not be implemented without the submission of project proposals, which provide the necessary information upon which funding decisions are based.

Description of Respondents: Not-for-profit institutions; business or other for-profit; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 50.

Frequency of Responses: Recordkeeping; Reporting: On occasion; annually.

Total Burden Hours: 1600.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–14851 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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Farm Service Agency

Title: Assignments of Payments and Joint Payment Authorization.

OMB Control Number: 0560–0183.

Summary of Collection: When the recipient of a Commodity Credit Corporation (CCC) or a Farm Service Agency (FSA) payment chooses to assign a payment to another party or have the payment made jointly with another party, the other party must be identified. This is a free service that is available upon request by the program payee. The regulations for assignment of payments are at 7 CFR part 1404. FSA will collect information using forms CCC–36, CCC–251, CCC–252.

Need and Use of the Information: The information collected on the forms will be used by FSA employee to record payment or contract being assigned, the amount of the assignment, the date, and the name and address of the assignee and the assignor. This is to enable FSA employee to pay the proper party when payments become due. FSA will also use the information to terminate joint payments at the request of both the producer and joint payee. If the information is not collected, there would be no payment to third party at the request of the respondents.

Description of Respondent: Farms.

Number of Respondents: 70,900.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 11,778.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–14852 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: Form RD 410–8, Application Reference Letter (A Request for Credit Reference).

OMB Control Number: 0575–0091.

Summary of Collection: The Rural Housing Service (RHS), under Section 502 of Title V of the Housing Act of 1949, as amended, provides financial assistance to construct, improve, alter, repair, replace, or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals in rural areas. Form RD 410–8, *Applicant Reference Letter,* provides credit information and is used by RHS to obtain information about an applicant's credit history that might not appear on a credit report.

Need And Use of the Information: Using form RD–410–8, RHS will collect information to supplement or verify other debts when a credit report is limited and unavailable to determine the applicant's eligibility and creditworthiness for RHS loans and grants. It can be used to document an ability to handle credit effectively for applicants who have not used sources of credit that appear on a credit report. The form provides RHS with relevant information about the applicant's creditworthiness and is used to make better creditworthiness decisions.

Description of Respondents: Business or other for-profit.

Number of Respondents: 11,279.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,383.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–14848 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Basin Electric Power Cooperative, Inc.: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an environmental assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing an environmental assessment (EA) in connection with possible impacts related to a project proposed by Basin Electric Power Cooperative, Inc. (Basin), of Bismarck, North Dakota. The proposal includes the construction and operation of a wind turbine generation facility referred to as the Prairie Winds-ND1 Project consisting of a 77-turbine, 115 megawatt (MW) facility at a site near Minot, North Dakota.

DATES: Written comments on this Notice must be received on or before July 24, 2009.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the EA or for further information, contact Dennis E. Rankin, Environmental Protection Specialist, USDA, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, or e-mail: *dennis.rankin@wdc.usda.gov;* or Kevin L. Solie, Basin Electric Power Cooperative, Inc., 1717 East Interstate Avenue, Bismarck, ND 58503–0564, telephone: (701) 355–5495, or e-mail: *ksolie@bepc.com.* A copy of the EA may be viewed on line at the Agency's Web site: *http://www.usda.gov/rus/water/ees/ea.htm* and at the following locations:

Rural Utilities Service, 1400 Independence Avenue, SW., Room 2244, Washington, DC 20250.

Basin Electric Power Cooperative, 1717 East Interstate Ave., Bismarck, ND 58503–0564.

Questions and comments should be sent to Mr. Rankin at the address provided.

SUPPLEMENTARY INFORMATION: Basin Electric proposes to construct a new 115 MW wind generation facility in north-central North Dakota. The project will include seventy-seven (77) 1.5 MW wind turbine generators.

Tetra Tech, an environmental consultant, prepared an EA for RUS that describes the project and assesses the proposed project's environmental impacts. RUS has conducted an independent evaluation of the EA and believes that it accurately assesses the impacts of the proposed project. No significant impacts are expected as a result of the construction of the project.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental review procedures as prescribed by 7 CFR Part 1794, Environmental Policies and Procedures.

Dated: June 17, 2009.

Richard Fristik,

Acting Director, Engineering and Environmental Staff.

[FR Doc. E9–14773 Filed 6–23–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this constitutes notice of the upcoming meeting of the Grain Inspection, Packers and Stockyards Administration (GIPSA) Grain Inspection Advisory Committee (Advisory Committee). The Advisory Committee meets twice annually to advise the GIPSA Administrator on the programs and services that GIPSA delivers under the U.S. Grain Standards Act. Recommendations by the Advisory Committee help GIPSA better meet the needs of its customers who operate in a dynamic and changing marketplace.

DATES: June 24, 2009, 8 a.m. to 5 p.m.; and June 25, 2009, 8 a.m. to Noon.

ADDRESSES: The Advisory Committee meeting will take place at the Renaissance Grand and Suites Hotel, 800 Washington Avenue, St. Louis, Missouri 63101.

Requests to orally address the Advisory Committee during the meeting or written comments may be sent to: Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 3601, Washington, DC 20250–3601. Requests and comments may also be faxed to (202) 690–2173.

FOR FURTHER INFORMATION CONTACT: Terri L. Henry by phone at (202) 205–8281 or by e-mail at *Terri.L.Henry@usda.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to the GIPSA Administrator with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*). Information about the Advisory Committee is available on the GIPSA Internet site at *http://www.gipsa.usda.gov*. Under the section, ''I Want To * * *,'' select ''Learn about the Grain Inspection Advisory Committee.''

The agenda will include an overview of GIPSA's 2009 operations, review of the revised sorghum standards, GIPSA's strategic plan, container regulations, and GIPSA's financial status.

For a copy of the agenda please contact Terri L. Henry by phone at (202) 205–8281 or by e-mail at *Terri.L.Henry@usda.gov*.

Public participation will be limited to written statements unless permission is received from the Committee Chairperson to orally address the Advisory Committee. The meeting will be open to the public.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Terri L. Henry at the telephone number listed above.

Randall Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E9–14847 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Forest Service

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

AGENCY: Sequoia National Forest, USDA Forest Service.

ACTION: Notice of new fee sites

SUMMARY: The Sequoia National Forest is proposing to charge a $175, $200, and $250 per night fee for the overnight rental of three cabins located on newly acquired National Forest System lands known as Upper Grouse Valley in the Giant Sequoia National Monument. These three cabins have not been available for public recreation use prior to this date. Rentals of other cabins on the Sequoia National Forest have shown that people appreciate and enjoy the availability of rental cabins. Funds from these rentals will be used for the continued operation and maintenance of the cabins and improvements. If there are excess funds, they will be used to improve the quality of the experience for visitors to the Giant Sequoia Monument. Improvements considered would include the development of interpretive opportunities, trails, and conservation programs focusing on bringing underrepresented youth to the Monument.

DATES: It is anticipated that the Upper Grouse Valley Cabins will become available for recreation rental April 1, 2010.

ADDRESSES: Forest Supervisor, Sequoia National Forest, 1839 South Newcomb Street, Porterville, California, 93257.

FOR FURTHER INFORMATION CONTACT: Mary Cole, Recreation Fee Coordinator, 559–784–1500, extension 1133.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, 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. This proposed new fee will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

The Sequoia National Forest currently has three other overnight rentals under the Federal Lands Recreation Enhancement Act and five cabin rentals under concessionaire management. These rentals are often fully booked throughout the rental season. A business analysis of the Upper Grouse Valley cabins showed that people desire having this sort of recreation experience on the Sequoia National Forest. A market analysis indicates that the $175, $200, and $250 per night fee is both reasonable and acceptable for these cabins given the unique recreation experience, amenities and services provided. People wanting to rent the Upper Grouse Valley cabins will need to do so through the National Recreation Reservation Service, at www.recreation.gov or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee for reservations made through the internet or $10 for reservations made through the call center.

Dated: June 16, 2009.

Tina J. Terrell,

Forest Supervisor, Sequoia National Forest.

[FR Doc. E9–14667 Filed 6–23–09; 8:45 am]

BILLING CODE 3410–11–M

U.S. COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Georgia Advisory Committee (Committee) to the Commission will convene at 1:30 p.m. and adjourn at 3:30 p.m. on Wednesday, July 15, 2009, at the Barnes Law Group, 31 Atlanta Street, Marietta, Georgia 30060. The purpose of the meeting is to discuss the Committee's report on fair housing enforcement in Georgia and discuss the Committee's activity plan for fiscal year 2010.

Members of the public are entitled to submit written comments. The address is 61 Forsyth St., SW., Suite 18T40, Atlanta, Georgia 30303. Persons wishing

to e-mail their comments, present their comments at the meeting, or who desire additional information should contact Dr. Peter Minarik, Regional Director, at (404) 562–7000 or 800–877–8339 for individuals who are deaf, hearing impaired, and/or have speech disabilities or by e-mail to *pminarik@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov,* or to contact the Southern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Dated in Washington, DC, June 18, 2009.

Martin Dannenfelser,

Staff Director.

[FR Doc. E9–14758 Filed 6–23–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before July 14, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09–029. Applicant: University of Virginia, P.O. Box 800736, 1340 Jefferson Park Ave., Charlottesville, VA 22908. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to study proteins, macromolecular complexes and viruses. Specifically, this instrument will be used to investigate the structure of these materials at as high a resolution as possible. Justification for Duty–Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: May 26, 2009.

Docket Number: 09–030. Applicant: University of Texas at El Paso, 500 W. University Ave., El Paso, TX 79968. Instrument: Electron Microscope. Manufacturer: Hitachi High–Technologies Corporation, Japan. Intended Use: The instrument will be used to investigate atomic structures and microscopic structures including minerals, metals, alloys, semiconductor materials, etc. Specifically, it will be used to understand how the structure of these materials influence their behavior and performance. Justification for Duty–Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: May 27, 2009.

Docket Number: 09–031. Applicant: University of Toledo, 2801 W. Bancroft St., Toledo, Ohio 43606. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used for the imaging of wet samples in variable pressure mode and ESEM mode, which is required for most environmental and biological sample evaluation. Justification for Duty–Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: May 27, 2009.

Docket Number: 09–033. Applicant: Case Western Reserve University, 10900 Euclid Ave., Cleveland, OH 44106. Instrument: Electron Microscope. Manufacturer: FEI, the Netherlands. Intended Use: The instrument will be used to study proteins at the molecular level. Justification for Duty–Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: May 29, 2009.

Docket Number: 09–036. Applicant: University of Texas Health Science Center at Houston, 6431 Fannin St., Houston TX 77030. Instrument: Electron Microscope. Manufacturer: JEOL, Japan. Intended Use: The instrument will be used for high resolution structural analysis of eukaryotic and prokaryotic cell structures, protein filaments within and extending from the cell, protein complexes at the bacterial and eukaryotic cell surface and isolated viruses, protein filaments and secretion channels. Justification for Duty–Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: June 5, 2009.

Docket Number: 09–037. Applicant: National Institutes of Health, 903 S. 4th St., Hamilton, MT 59840. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to study protein complexes on viral surfaces, internal core structures, viral docking sites on host cells or tissues, 3–dimentional structures of intact viruses and high–containment bacteria, intracellular relationships between viruses and bacteria as they enter, replicate and exit cells. Justification for Duty–Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: June 5, 2009.

Dated: June 18, 2009.

Christopher Cassel,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. E9–14885 Filed 6–23–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 090528927–9927–01]

Solicitation of Applications for Economic Development Assistance Programs

AGENCY: Economic Development Administration (EDA), Department of Commerce

ACTION: Notice and request for applications.

Pursuant to the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 *et seq.*) (PWEDA), EDA announces general policies and application procedures for grant-based investments under the Public Works, Planning, Local Technical Assistance, and Economic Adjustment Assistance Programs to promote comprehensive, entrepreneurial and innovation-based economic development efforts to enhance the competitiveness of regions, resulting in increased private investment and higher-skill, higher-wage jobs in areas experiencing substantial and persistent economic distress.

DATES: Applications are accepted on a continuing basis and processed as received. Generally, two months are required for EDA to reach a final decision after receipt of a complete application that meets all requirements. Applications received after the date of this notice will be processed in accordance with the requirements set forth herein and in the related federal funding opportunity (FFO) announcement, until the next annual FFO is posted on *www.grants.gov* and related notice and request for applications is published in the **Federal Register.**

Application Submission Requirements: The applicant is advised to read carefully the instructions contained in both the complete FFO announcement for this request for applications, and in the *Application for Investment Assistance* (Form ED–900).

To apply for assistance under any of EDA's programs, an applicant must submit a complete Form ED–900. EDA will continue to require additional government-wide federal grant assistance forms from the Standard Form (SF) 424 family and certain Department of Commerce (CD) forms as part of the application package. The specific SF forms required with the Form ED–900 depend on whether the applicant seeks construction or non-construction assistance. The following will assist applicants in determining which forms are required for a complete application. Please see the section below entitled ''Obtaining Application Packages'' for information.

Applicants seeking assistance for a project with construction components are required to complete and submit the following:

(i) Form ED–900 (*Application for Investment Assistance*);

(ii) Form SF–424 (*Application for Federal Assistance*);

(iii) Form SF–424C (*Budget Information—Construction Programs*);

(iv) Form SF–424D (*Assurances—Construction Programs*); and

(v) Form CD–511 (*Certification Regarding Lobbying*).

Applicants seeking assistance for a project without construction components are required to complete and submit the following forms:

(i) Form ED–900 (*Application for Investment Assistance*);

(ii) Form SF–424 (*Application for Federal Assistance*);

(iii) Form SF–424A (*Budget Information—Non-Construction Programs*);

(vi) Form SF–424B (*Assurances—Non-Construction Programs*); and

(v) Form CD–511 (*Certification Regarding Lobbying*).

Applicants for both construction and non-construction assistance may be required to submit to an individual background screening on the form titled *Applicant for Funding Assistance* (Form CD–346) and to provide certain lobbying information using the form titled *Disclosure of Lobbying Activities* (Form SF–LLL). The Form ED–900 provides detailed guidance to help the applicant assess whether Forms CD–346 and SF–LLL are required and how to access them.

Content and Form of the Form ED–900: The applicant is advised to read carefully the instructions contained in this notice, the complete FFO announcement, and all forms contained in the appropriate application package. It is the sole responsibility of the applicant to ensure that the appropriate application package is complete and received by EDA.

The Form ED–900 is divided into lettered sections that correspond to specific EDA program components (*e.g.,* Local or National Technical Assistance; Construction Assistance), which address all of EDA's statutory and regulatory requirements. Only the first section, Section A, solicits general information regarding a proposed project and must be completed by all applicants for any type of assistance. Section B solicits specific economic data to help EDA assess an applicant's regional eligibility for Public Works or Economic Adjustment Assistance, and Section C solicits information to help EDA determine the applicant's maximum allowable investment rate for Planning, Local and National Technical Assistance, University Center, or Research and Evaluation projects. Section D solicits documents from non-governmental applicants relevant to organizational capacity and structure. The remaining sections solicit information essential for EDA to assess project effectiveness and competitiveness by program type, such as project coordination with existing economic development strategies and potential impact. Sections E, F, G, H, I, J, K, L, M, and N solicit such information from applicants for Non-Construction, Planning, Short-Term Planning, State Planning, Local or National Technical, University Center, Economic Adjustment, Revolving Loan Fund, Construction, and Design and Engineering Assistance, respectively. The Form ED–900 also contains a series of exhibits, which include EDA and Department of Commerce assurances and the Calculation of Estimated Relocation and Land Acquisition Expenses. The text of the Form ED–900 specifies which exhibits are required for each type of applicant.

Please note that an applicant need not complete all sections of the Form ED–900. As noted above, the sections an applicant must complete are determined by the program under which funding is sought and the nature of the applicant. Based on program type, the following table details the sections and exhibits in the ED–900 that the applicant must complete. This table also is provided on the first page of the Instructions to the Form ED–900.

EDA program	Required form ED–900 sections
Public Works	Complete Sections A, B, and M and Exhibits A, D, and E.
Economic Adjustment	Complete Sections A, B, and K and Exhibit C. Also complete Sections M and Exhibits A, D, and E if the application has construction components and Section N if the application has only design/engineering requirements. Complete Section E if the application has no construction components.
Partnership Planning	Complete Sections A, C, E, and F and Exhibit C.
Short-Term Planning	Complete Sections A, C, E, and G and Exhibit C.
State Planning	Complete Sections A, C, E, G, and H and Exhibit C.
University Center	Complete Sections A, C, E, and J and Exhibit C.
Local Technical Assistance	Complete Sections A, C, E, and I and Exhibit C.
National Technical Assistance	Complete Sections A, C, E, and I and Exhibit B.
Research and Evaluation Assistance	Complete Sections A, C, E and Exhibit B.
Revolving Loan Fund	Complete Sections A, B, E, K, and L and Exhibit C.
Design and Engineering	Complete Sections A, B, and N and Exhibit C.

Obtaining Application Packages: An applicant may obtain the appropriate application package electronically at *www.grants.gov.* All components of the appropriate application package may be accessed and downloaded (in a screen-fillable format) at *http://www.grants.gov/applicants/apply_for_grants.jsp.* Alternatively, applicants eligible for assistance under this notice may request paper (hardcopy) application packages by contacting the applicable EDA regional office servicing your geographic area listed below under ''Addresses and Telephone Numbers for EDA's Regional Offices.''

Application Submission Formats: Applications may be submitted either (i) electronically in accordance with the procedures provided at *www.grants.gov;* or (ii) in paper (hardcopy) format to the applicable regional office address provided below. The content of applications is the same for paper submissions as it is for electronic submissions. EDA will not accept facsimile transmissions of applications.

Electronic Submissions: Applicants are encouraged to submit applications electronically in accordance with the instructions provided at *www.grants.gov.* The preferred file format for electronic attachments is portable document format (PDF); however, EDA will accept electronic files in Microsoft Word, WordPerfect, or Microsoft Excel formats. Validation or rejection of your application by *www.grants.gov* may take additional days after your submission. Therefore, please consider the *www.grants.gov* validation/rejection process in developing your application submission timeline.

Applicants should access the following link for assistance in navigating *www.grants.gov* and for a list of useful resources: *http://www.grants.gov/applicants/applicant_help.jsp.* If you do not find an answer to your question under *Frequently Asked Questions,* try consulting the *Applicant's User Guide.* If you still cannot find an answer to your question, contact *www.grants.gov* via e-mail at *support@grants.gov* or telephone at 1–800–518–4726. The hours of operation for *www.grants.gov* are Monday–Friday, 7 a.m. to 9 p.m. (Eastern Time) (except for federal holidays).

Paper Submissions: An eligible applicant under this notice may submit a completed paper application to the applicable EDA regional office listed below. The applicant must submit one original and two copies of the appropriate completed application package via postal mail, shipped overnight, or hand-delivered to the applicable regional office, unless otherwise directed by EDA staff. Department of Commerce mail security measures may delay receipt of United States Postal Service mail for up to two weeks. Therefore, applicants who submit paper submissions are advised to use guaranteed overnight delivery services.

Addresses and Telephone Numbers for EDA's Regional Offices: Applicants in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee, may submit paper submissions to: Economic Development Administration, Atlanta Regional Office, 401 West Peachtree Street, NW., Suite 1820, Atlanta, Georgia 30308, Telephone: (404) 730–3002, Fax: (404) 730–3025.

Applicants in Arkansas, Louisiana, New Mexico, Oklahoma and Texas, may submit paper submissions to: Economic Development Administration, Austin Regional Office, 504 Lavaca, Suite 1100, Austin, Texas 78701–2858, Telephone: (512) 381–8144, Fax: (512) 381–8177.

Applicants in Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin and Muscatine and Scott counties, Iowa, may submit paper submissions to: Economic Development Administration, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, Illinois 60606, Telephone: (312) 353–7706, Fax: (312) 353–8575.

Applicants in Colorado, Iowa (excluding Muscatine and Scott counties), Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming, may submit paper submissions to: Economic Development Administration, Denver Regional Office, 410 17th Street, Suite 250, Denver, Colorado 80202, Telephone: (303) 844–4714, Fax: (303) 844–3968.

Applicants in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, U.S. Virgin Islands, Virginia and West Virginia, may submit paper submissions to: Economic Development Administration, Philadelphia Regional Office, Curtis Center, 601 Walnut Street, Suite 140 South, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–4603, Fax: (215) 597–1063.

Applicants in Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Marshall Islands, Micronesia, Nevada, Northern Mariana Islands, Oregon, Republic of Palau and Washington, may submit paper submissions to: Economic Development Administration, Seattle Regional Office, Jackson Federal Building, Room 1890, 915 Second Avenue, Seattle, Washington 98174, Telephone: (206) 220–7660, Fax: (206) 220–7669.

FOR FURTHER INFORMATION CONTACT: For additional information or for a paper copy of the FFO announcement, contact the appropriate EDA regional office listed above. EDA's Internet Web site at *http://www.eda.gov* also contains additional information on EDA and its programs.

SUPPLEMENTARY INFORMATION:

Program Information: EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. In implementing this mission pursuant to its authorizing statute, PWEDA, EDA advances economic growth by assisting communities and regions experiencing chronic high unemployment and low per capita income to create an environment that fosters innovation, promotes entrepreneurship, and attracts increased private capital investment. EDA encourages the submission of only those applications that will significantly benefit regions with distressed economies. Distress may exist in a variety of forms, including high levels of unemployment, low income levels, large concentrations of low-income families, significant declines in per capita income, large numbers (or high rates) of business failures, sudden major layoffs or plant closures, trade impacts, military base closures, natural or other major disasters, depletion of natural resources, reduced tax bases, or substantial loss of population because of the lack of employment opportunities. It is EDA's experience that regional economic development to alleviate these conditions is effected primarily through investments and decisions made by the private sector. Therefore, EDA funding generally must be matched by non-EDA funds. *See* section III.C. of the applicable FFO for more information.

EDA will evaluate and select applications according to the investment policy guidelines and funding priorities set forth below under ''Evaluation Criteria'' and ''Funding Priorities'' and in section V. of the FFO announcement.

Electronic Access: The complete FFO announcement for the FY 2009 Economic Development Assistance Programs competition is available at *www.grants.gov* and at *www.eda.gov.*

Funding Availability: Funding appropriated under the Omnibus Appropriations Act, 2009 (Pub. L. 111–08, 123 Stat. 524, 561 (2009)) is

available for the economic development assistance programs authorized by PWEDA and for the Trade Adjustment Assistance for Firms Program (TAAF Program) authorized under the Trade Act of 1974, as amended (19 U.S.C. 2341–2391) (Trade Act). Funds in the amount of $240,000,000 have been appropriated for FY 2009 and shall remain available until expended.

Under this announcement, approximately $196,972,592 is available for the (i) Public Works and Economic Development Facilities Program; (ii) Planning Program; (iii) Local Technical Assistance Program; and (iv) Economic Adjustment Assistance Program. The funding periods and funding amounts referenced in the FFO announcement are subject to the availability of funds at the time of award, as well as to Department of Commerce and EDA priorities at the time of award. The Department of Commerce and EDA will not be held responsible for application preparation costs. Publication of this notice and the FFO announcement does not obligate the Department of Commerce or EDA to award any specific grant or cooperative agreement or to obligate all or any part of available funds.

From amounts otherwise made available for the economic development assistance programs authorized by PWEDA, EDA is allocating $14,700,000 in FY 2009 to the Global Climate Change Mitigation Incentive Fund to support projects that foster economic competitiveness while enhancing environmental quality. EDA anticipates that these funds will be used to promote the green economy through projects that enhance sustainability, diversify the economy, and result in 21st century higher-skill, higher-wage jobs. An applicant eligible for funding under this initiative should apply in the same manner that it would apply for Economic Adjustment Assistance Program funding and should include in the project narrative a detailed explanation of how the proposed project will help advance the goals of the Global Climate Change Mitigation Incentive Fund. Please see section II.A.5 of the applicable FFO. For more information on the goals of this initiative, contact the designated point of contact listed in section VIII.B. of the applicable FFO for the EDA regional office servicing your geographic area.

EDA expects to post a separate FFO announcement(s) at *www.grants.gov* and at *http://www.eda.gov* that will set forth the specific funding priorities, application and selection processes, time frames, and evaluation criteria for certain National Technical Assistance and Research and Evaluation projects to be funded with FY 2009 appropriations. A separate FFO announcement dated February 20, 2009, regarding the FY 2009 University Center competition in EDA's Atlanta and Seattle regional offices, has been posted at *www.grants.gov* and at *http://www.eda.gov*.

Under the Trade Act, EDA administers the TAAF Program to provide technical assistance to firms adversely affected by increased import competition. EDA anticipates that appropriated funds will be used to extend new cooperative agreements to the existing network of 11 Trade Adjustment Assistance Centers, and to provide technical assistance to firms certified as eligible under the TAAF Program. *See* 13 CFR part 315.

Statutory Authorities: The authorities for the (i) Public Works and Economic Development Facilities Program; (ii) Planning Program; (iii) Local Technical Assistance Program; and (iv) Economic Adjustment Assistance Program are sections 201 (42 U.S.C. 3141), 203 (42 U.S.C. 3143), 207 (42 U.S.C. 3147), and 209 (42 U.S.C. 3149) of PWEDA, respectively. Unless otherwise provided in this notice or in the FFO announcement, applicant eligibility, program objectives and priorities, application procedures, evaluation criteria, selection procedures, and other requirements for all programs are set forth in EDA's regulations (codified at 13 CFR chapter III) and applicants must address these requirements. EDA's regulations and PWEDA are available at *http://www.eda.gov/InvestmentsGrants/Lawsreg.xml*.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 11.300, Grants for Public Works and Economic Development Facilities; 11.302, Economic Development—Support for Planning Organizations; 11.303, Economic Development—Technical Assistance; 11.307, Economic Adjustment Assistance.

Applicant Eligibility: Pursuant to PWEDA, eligible applicants for and eligible recipients of EDA investment assistance include a(n): (i) District Organization; (ii) Indian Tribe or a consortium of Indian Tribes; (iii) State, a city or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (iv) institution of higher education or a consortium of institutions of higher education; or (v) public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State. *See* section 3 of PWEDA (42 U.S.C. 3122) and 13 CFR 300.3. Projects eligible for Public Works or Economic Adjustment investment assistance include those projects located in regions meeting ''Special Need'' criteria (defined in 13 CFR 300.3), as set forth in section VII. of the FFO announcement. For-profit, private-sector entities are not eligible to apply for investment assistance under this notice.

Cost Sharing Requirement: Generally, the amount of the EDA grant may not exceed 50 percent of the total cost of the project. Projects may receive an additional amount that shall not exceed 30 percent, based on the relative needs of the region in which the project will be located, as determined by EDA. *See* section 204(a) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(1). For Planning Assistance, the minimum EDA investment rate for projects under 13 CFR part 303 is 50 percent, and the maximum allowable EDA investment rate may not exceed 80 percent. *See* 13 CFR 301.4(b)(3). For projects of a national scope under 13 CFR part 306 (Training, Research and Technical Assistance), and for all other projects under 13 CFR part 306, the Assistant Secretary of Commerce for Economic Development has the discretion to establish a maximum EDA investment rate of up to 100 percent where the project (i) merits, and is not otherwise feasible without, an increase to the EDA investment rate; or (ii) will be of no or only incidental benefit to the recipient. *See* section 204(c)(3) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(4). The Assistant Secretary has the discretion to establish a maximum EDA investment rate of up to 100 percent of the total project cost in the case of EDA investment assistance to a(n) (i) Indian Tribe, (ii) State (or political subdivision of a State) that the Assistant Secretary determines has exhausted its effective taxing and borrowing capacity, or (iii) non-profit organization that the Assistant Secretary determines has exhausted its effective borrowing capacity. *See* sections 204(c)(1) and (2) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(5). Potential applicants should contact the appropriate EDA regional office to make these determinations.

In the application review process, EDA will consider the nature of the contribution (cash or in-kind) and the amount of the matching share funds. EDA will give preference to applications that include cash contributions (over in-kind contributions) as the matching share. While cash contributions are preferred, in-kind contributions, fairly evaluated by EDA, may provide the required non-federal share of the total

project cost. *See* section 204(b) of PWEDA (42 U.S.C. 3144) and section III.B. of the FFO announcement for this request for applications. In-kind contributions, which may include forgiveness or assumptions of debt, and contributions of space, equipment or services, are eligible to be included as part of the non-federal share of eligible project costs if they meet applicable federal cost principles and uniform administrative requirements. Funds from other federal financial assistance awards are considered matching share funds only if authorized by statute, which may be determined by EDA's reasonable interpretation of the statute. *See* 13 CFR 300.3. The applicant must show that the matching share is committed to the project for the project period, will be available as needed and is not conditioned or encumbered in any way that precludes its use consistent with the requirements of EDA investment assistance. *See* 13 CFR 301.5.

Intergovernmental Review: Applications for assistance under EDA's programs are subject to the State review requirements imposed by Executive Order 12372, ''*Intergovernmental Review of Federal Programs.*''

Evaluation and Selection Procedures: Each application package is circulated by a project officer within the applicable EDA regional office for review and comments. When the necessary input and information are obtained, the application is considered by the regional office's Investment Review Committee (IRC), which is comprised of regional office staff. The IRC discusses the application and evaluates it on two levels to (a) determine if the application meets the program-specific award and application requirements provided in 13 CFR 305.2 for Public Works investments, 13 CFR 303.3 for Planning investments, 13 CFR 306.2 for Local and National Technical Assistance, and 13 CFR 307.2 and 307.4 for Economic Adjustment Assistance; and (b) evaluate it using the general evaluation criteria set forth in 13 CFR 301.8. These general evaluation criteria also are provided below under ''Evaluation Criteria.''

The IRC recommends to the Regional Director whether an application merits further consideration, documenting its recommendation. For quality control assurance, EDA Headquarters reviews the IRC's analysis of the project's fulfillment of the investment policy guidelines set forth below under ''Evaluation Criteria,'' in section V.B. of the FFO, and in 13 CFR 301.8. After receiving quality control clearance, the Selecting Official, who is the Regional Director, considers the evaluations provided by the IRC and the degree to which one or more of the funding priorities provided below are included, in making his/her decision as to which applications merit further consideration.

To limit the burden on the applicant, EDA requests additional documentation only if EDA determines that the applicant's project merits further consideration. The Form ED–900 provides detailed guidance on documentation, information, and other materials that will be requested if, and only if, EDA selects the project for further consideration. EDA will inform the applicant if its application has been selected for further consideration or if the application has not been selected for funding.

Evaluation Criteria: EDA will select applications competitively based on the investment policy guidelines and funding priority considerations identified in this notice. EDA will evaluate the extent to which a project embodies the maximum number of investment policy guidelines and funding priorities possible and strongly exemplifies at least one of each. All investment applications will be competitively evaluated primarily on their ability to satisfy the following investment policy guidelines, each of equivalent weight and which also are set forth in 13 CFR 301.8.

1. *Be market-based and results driven.* An EDA investment will capitalize on a region's competitive strengths and will positively move a regional economic indicator, such as: an increased number of higher-skill, higher-wage jobs; increased tax revenue; or increased private sector investment.

2. *Have strong organizational leadership.* An EDA investment will have strong leadership, relevant project management experience, and a significant commitment of human resources talent to ensure a project's successful execution.

3. *Advance productivity, innovation and entrepreneurship.* An EDA investment will enable entrepreneurship, enhance regional industry clusters, and leverage and link technology innovators and local universities to the private sector to create the conditions for greater productivity, innovation, and job creation.

4. *Look beyond the immediate economic horizon, anticipate economic changes, and diversify the local and regional economy.* An EDA investment will be part of an overarching, long-term comprehensive economic development strategy that enhances a region's success in achieving a rising standard of living by supporting existing industry clusters, developing emerging new clusters, or attracting new regional economic drivers.

5. *Demonstrate a high degree of local commitment by exhibiting:*

- High levels of local government or non-profit matching funds and private sector leverage;
- Clear and unified leadership and support by local elected officials; and
- Strong cooperation between the business sector, relevant regional partners and local, State and federal governments.

In addition to using the investment policy guidelines set forth above, EDA also will evaluate all Planning Assistance applications based on the (i) quality of the proposed scope of work for the development, implementation, revision or replacement of a comprehensive economic development strategy (CEDS); and (ii) qualifications of the applicant to implement the goals and objectives resulting from the CEDS. *See* 13 CFR 303.3(a)(1) and (2). To ensure that the application fully meets these requirements, the applicant should pay particular attention to 13 CFR 303.7(b), which sets forth specific technical requirements for the CEDS.

Funding Priorities: Successful applications for EDA's investment programs will be regionally driven initiatives in areas of the Nation that are underperforming and eligible for EDA assistance, and that meet one or more of the following core criteria (investment applications that meet more than one core criterion will be given more favorable consideration):

1. *Investments in support of long-term, coordinated and collaborative regional economic development approaches:*

- Establish comprehensive regional economic development strategies that identify promising opportunities for long-term economic growth.
- Exhibit demonstrable, committed multi-jurisdictional support from leaders across all sectors:

i. Public (*e.g.,* mayors, city councils, county executives, senior state leadership);

ii. Institutional (*e.g.,* institutions of higher learning);

iii. Non-profit (*e.g.,* chambers of commerce, development organizations); and

iv. Private (*e.g.,* leading regional businesses, significant regional industry associations).

- Generate quantifiable positive economic outcomes.

2. *Investments that support innovation and competitiveness:*

- Develop and enhance the functioning and competitiveness of

leading and emerging industry clusters in an economic region.

• Advance technology transfer from research institutions to the commercial marketplace.

• Bolster critical infrastructure (*e.g.,* transportation, communications, specialized training) to prepare economic regions to compete in the world-wide marketplace.

3. *Investments that encourage entrepreneurship:*

• Cultivate a favorable entrepreneurial environment consistent with regional strategies.

• Enable economic regions to identify innovative opportunities among growth-oriented small and medium-size enterprises.

• Promote community and faith-based entrepreneurship programs aimed at improving economic performance in an economic region.

4. *Investments in support of strategies that link regional economies with the global marketplace:*

• Enable businesses, local governments and key institutions (*e.g.,* higher education) to understand and take advantage of the numerous free trade agreements implemented in the last seven years.

• Enable economic development professionals to develop and implement strategies that reflect the competitive environment of the 21st Century global marketplace.

• Build strategies to help regional economies boost exports.

• Promote foreign direct investment.

5. *Additional considerations:*

• Respond to sudden and severe economic dislocations (*e.g.,* major layoffs, plant closures or disasters).

• Enable BRAC-impacted communities to transition from a military to civilian economy.

• Advance the goals of linking historic preservation and economic development as outlined by Executive Order 13287, ''*Preserve America.*''

• Support the economic revitalization of brownfields.

• Implement the Global Climate Change Mitigation Incentive Fund as set forth in section II.A.5 of the FFO.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The administrative and national policy requirements for all Department of Commerce awards, contained in the *Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements,* published in the **Federal Register** on February 11, 2008 (73 FR 7696), are applicable to this competitive solicitation.

Paperwork Reduction Act: This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Form ED–900 (*Application for Investment Assistance*) has been approved by the Office of Management and Budget (OMB) under the Control Number 0610–0094. The use of Forms SF–424 (*Application for Financial Assistance*), SF–424A (*Budget Information—Non-Construction Programs*), SF–424B (*Assurances—Non-Construction Programs*), SF–424C (*Budget Information—Construction Programs*), and SF–424D (*Assurances—Construction Programs*) has been approved under OMB Control Numbers 4040–0004, 0348–0044, 4040–0007, 4040–0008, and 4040–0009, respectively. The Form CD–346 (*Applicant for Funding Assistance*) is approved under OMB Control Number 0605–0001, and Form SF–LLL (*Disclosure of Lobbying Activities*) is approved under OMB Control Number 0348–0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

Executive Order 12866 (Regulatory Planning and Review): This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

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

Dated: June 18, 2009.

Dennis Alvord,

Acting Deputy Assistant Secretary of Commerce for Economic Development .

[FR Doc. E9–14822 Filed 6–23–09; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[A(32c)–07–2009]

Foreign-Trade Zone 20—Suffolk, VA; Scope Clarification Request—Foreign-Trade Subzone 20D, Canon Virginia, Inc.—Newport News, VA (Computer Printers and Related Products)

A request for clarification of scope has been submitted to the Foreign-Trade Zones Board (the Board) by Canon Virginia, Inc. (Canon), operator of Foreign-Trade Subzone 20D at Canon's computer printer and related products manufacturing facilities in Newport News, Virginia.

A grant of authority for Canon's subzone was issued on November 21, 2002, with manufacturing authority for computer printers, printer cartridges and drums, toner and toner bottles, and refurbished copiers (Board Order 1262, 67 FR 71934, 12/03/2002). Canon listed in the original application specific components which would be used in manufacturing and also listed categories of components which might be sourced from abroad in the future. The current request involves Canon's toner cartridge and subassembly and toner bottle production (HTSUS 8443.99—duty free). Canon has informed the Board that this production will involve the use of imported materials that were not specifically listed as foreign-sourced components in the original subzone request. The company now plans to use foreign-sourced Teflon solution (HTSUS 3403.19.5000—5.8%), strontium ferrite compound (HTSUS 2841.90.5000—3.7%) and barium sulfate mixture (HTSUS 3824.90.9290—5%) in its toner cartridge and subassembly production and strontium ferrite compound in its toner bottle production.

The FTZ staff invites the comments of interested parties for consideration in its review. Submissions shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is July 24, 2009.

A copy of the request will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Diane Finver at *Diane_Finver@ita.doc.gov,* or (202) 482–1367.

Dated: June 18, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–14887 Filed 6–23–09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part.

DATES: *Effective Date:* June 24, 2009.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. The Department also received requests to revoke in part the antidumping duty orders on Ball Bearings and Parts Thereof from Japan for three exporters and from the United Kingdom for one exporter.

Notice of No Sales

Under 19 CFR 351.213(d)(3), the Department may rescind a review where there are no exports, sales, or entries of subject merchandise during the respective period of review (''POR'') listed below. If a producer or exporter named in this initiation notice had no exports, sales, or entries during the POR, it should notify the Department within 30 days of publication of this notice in the **Federal Register**. The Department will consider rescinding the review only if the producer or exporter, as appropriate, submits a properly filed and timely statement certifying that it had no exports, sales, or entries of subject merchandise during the POR. All submissions must be made in accordance with 19 CFR 351.303 and are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Six copies of the submission should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of this initiation notice and to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of this **Federal Register** notice.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate-rate criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate-rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate-rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate-rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://ia.ita.doc.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [1] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[2] should timely file a Separate Rate Application

[1] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceedings (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[2] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Application.

to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on the Department's Web site at *http://ia.ita.doc.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application apply equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than May 31, 2010.

	Period to be reviewed
Antidumping Duty Proceedings	
BELGIUM: Stainless Steel Plate in Coils, A–423–808	5/1/08–4/30/09
ArcelorMittal Stainless Belgium N.V. (formerly known as Ugine & ALZ Belgium N.V.)	
FRANCE: Ball Bearings and Parts Thereof, A–427–201	5/1/08–4/30/09
Microturbo SAS	
SKF France, S.A., SKF Aerospace France S.A.S., SNFA S.A.S.	
SNR Roulements	
GERMANY: Ball Bearings and Parts Thereof, A–428–201	5/1/08–4/30/09
Gebruder Reinfurt GmbH & Co. KG (GRW)	
myonic GmbH	
RWG Frankenjura-Industrie Flugwerklager GmbH	
Schaeffler KG	
SKF GmbH	
SNR Walzlager GmbH	
INDIA: Certain Welded Carbon Steel Standard Pipes and Tubes, A–533–502	5/1/08–4/30/09
Lloyds Metals & Engineers Limited	
Lloyds Steel Industries Limited	
Jindal Industries Ltd.	
Maharashtra Seamless Limited	
Jindal Pipes Limited	
Makalu Trading Pvt. Ltd.	
Ratnamani Metals Tubes Ltd.	
Universal Tube and Plastic Ind.	
Ushdev International Ltd.	
Uttam Galva Steels Ltd.	
ITALY: Ball Bearings and Parts Thereof, A–475–201	5/1/08–4/30/09
Schaeffler Italia s.r.l, and WPB Water Pump Bearing GmbH & Co. KG	
SKF Industrie S.p.A., SKF RIV–SKF Officine di Villar Perosa S.p.A., RFT S.p.A., and Somecat S.p.A.	
JAPAN: Ball Bearings and Parts Thereof, A–588–201	5/1/08–4/30/09
Asahi Seiko Co., Ltd.	
Aisin Seiki Company Ltd.	
Japanese Aero Engine Bearings Corporation	
JTEKT Corporation (formerly known as Koyo Seiko Co., Ltd.)	
Makino Milling Machine Company Limited	
Mazda Motor Corporation	
Nachi-Fujikoshi Corporation	
Nippon Pillow Block Co., Ltd.	
Nissan Motor Company, Ltd.	
NSK Ltd.	
NTN Corporation	
Sapporo Precision, Inc., and Tokyo Precision, Inc.	
Univance Corporation	
Yamazaki Mazk Trading Corporation	
REPUBLIC OF KOREA: Certain Polyester Staple Fiber, A–580–839	5/1/08–4/30/09
Huvis Corporation	
Saehan Industries, Inc.	
TAIWAN: Certain Circular Welded Carbon Steel Pipes and Tubes, A–583–008	5/1/08–4/30/09
Yieh Phui Enterprise Co., Ltd.	
TAIWAN: Polyester Staple Fiber, A–583–833	5/1/08–4/30/09
Far Eastern Textiles Ltd.	
Nan Ya Plastics Corporation	
THE PEOPLE'S REPUBLIC OF CHINA: Pure Magnesium[3], A–570–832	5/1/08–4/30/09
Tianjin Magnesium International, Ltd.	
Pan Asia Magnesium Co., Ltd.	
Tianjin Xianghaiqi Resources Import & Export Trade Co., Ltd.	
TURKEY: Certain Welded Carbon Steel Pipe and Tube, A–489–501	5/1/08–4/30/09
Borusan Group	
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	
Borusan Birlesik Boru Fabrikalari San ve Tic.	
Borusan Istikbal Ticaret T.A.S.	
Boruson Holding A.S.	

	Period to be reviewed
Boruson Gemlik Boru Tesisleri A.S.	
Borusan Ihracat Ithalat ve Dagitim A.S.	
Borusan Ithicat ve Dagitim A.S.	
Tubeco Pipe and Steel Corporation	
Toscelik Profil ve Sac Endustrisi A.S.	
Toscelik Metal Ticaret A.S.	
Tosyali Dis Ticaret A.S.	
Yucel Group	
Yucel Boru ve Profil Endustrisi A.S.	
Cayirova Boru Sanayi ve Ticaret A.S.	
Yucel Boru Ithalat-Ithracat ve Pazarlama A.S.	
Erbosan, Erciyas Boru Sanayi ve Ticaret A.S.	
TURKEY: Light-Walled Rectangular Pipe and Tube, A–489–815	1/30/08–4/30/09
Toscelik Profil ve Sac Endustrisi A.S.	
Tosyali Dis Ticaret A.S.	
UNITED KINGDOM: Ball Bearings and Parts Thereof, A–412–201	5/1/08–4/30/09
The Barden Corporation (U.K.) Limited and Schaeffler (U.K.) Limited	
NSK Bearings Europe Ltd.	
SKF (UK) Limited SNFA Operations and SKF (UK) Limited Stonehouse Operations	
Timken UK Ltd. and Timken Aerospace UK Ltd.	
Countervailing Duty Proceedings	
BELGIUM: Stainless Steel Plate in Coils, C–423–809	1/1/08–12/31/08
ArcelorMittal Stainless Belgium N.V. (formerly known as (Ugine & ALZ Belgium N.V.)	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v.*United States,* 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: June 17, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–14883 Filed 6–23–09; 8:45 am]

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[3] If one of the above-named companies does not qualify for a separate rate, all other exporters of Pure Magnesium from the People's Republic of China (''PRC'') who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XP84

Endangered Species; File No. 14394

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Douglas Peterson, PhD, University of Georgia, Warnell School of Forest Resources, Athens, GA 30602, has applied in due form for a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 24, 2009.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov/index.cfm*, and then selecting File No. 14394 from the list of available applications. These documents are also available for review upon written request or by appointment. The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is

NMFS.Pr1Comments@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: File No. 14394.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Dr. Douglas Peterson is seeking a five-year scientific research permit to conduct a study in the Altamaha River, Georgia, assessing the distribution, abundance and movements of adult and sub-adult of shortnose sturgeon. The permit would authorize non-lethal sampling methods on up to 500 shortnose sturgeon annually, but not to exceed 1,500 over the life of the permit. Research activities would include gill netting, measuring (length, weight, photos), genetic/fin-ray tissue sampling, PIT and sonic tagging, anesthesia, laparoscopy, and gastric lavage. To document spawning in the river, up to 20 eggs or larvae would be lethally collected with artificial substrates annually. Additionally, one incidence of unintentional mortality or serious injury is proposed over the life of the permit.

Dated: June 18, 2009

P. Michael Payne,

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

[FR Doc. E9–14879 Filed 6–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XP64

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

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

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

ACTION: Notice of issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a one-year Letter of Authorization (LOA) has been issued to the Monterey Bay National Marine Sanctuary (MBNMS) to incidentally take, by Level B harassment only, California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to professional fireworks displays within the MBNMS.

DATES: This authorization is effective from July 4, 2009, through July 3, 2010.

ADDRESSES: The LOA and supporting documentation are available for review in the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, by contacting one of the individuals listed here (**FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS, (301) 713–2289, or Monica DeAngelis, Southwest Regional Office, NMFS, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) upon request, to allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued.

The Secretary shall grant the authorization for incidental taking if NMFS finds, after notice and opportunity for public comment, that the total of such taking during each five-year (or less) period concerned, will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 Code of Federal Regulations 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of California sea lions and Pacific harbor seals, by Level B harassment, incidental to commercial fireworks displays within the Monterey Bay National Marine Sanctuary (MBNMS) became effective on July 4, 2006, and remain in effect until July 3, 2011. For detailed information on this action, please refer to the original **Federal Register** notice (71 FR 40928, July 19, 2006). These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals during the fireworks displays within the Sanctuary boundaries. This will be the third LOA issued pursuant to these regulations.

Summary of Request

On February 11, 2008, NMFS received a request for a LOA pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals incidental to fireworks displays at the MBNMS. Justification for conducting fireworks displays within the MBNMS can be found in the proposed rule (71 FR 25544, May 1, 2006) and the in final rule (71 FR 40928, July 19, 2006).

Summary of Activity and Monitoring Under the Current LOA

In compliance with the 2008 LOA, the MBNMS submitted an annual report on the fireworks displays at MBNMS. A summary of that report follows.

For each display, observers conducted pre-event surveys to document abundance and distribution of local marine mammal populations within the fireworks areas. Following the fireworks display, observers conducted post-event monitoring to record the presence of injured or dead marine mammals, and other wildlife.

Pre-event monitoring of the Cambria Independence Day Fireworks on July 3 found no marine mammals present at the site and a post-event census on July

5 found no injured or dead marine mammals.

An observer from the Moss Landing Marine Laboratory conducted a pre-event survey on July 3 for the City of Monterey's Independence Day Fireworks and enumerated 394 California sea lions, two sea otters (*Enhydra lutris*), and 10 harbor seals. Post-event monitoring on July 5 revealed no injured or dead marine mammals.

Observers monitored the Pillar Point Harbor area for the Half Moon Bay Independence Day Fireworks on July 3 and recorded two harbor seals. Post-event monitoring on July 5 revealed no injured or dead marine mammals.

The Pacific Grove Feast of Lanterns Fireworks display consisted of enumerating all marine mammals within 400 meters of the fireworks launch site (survey area). On July 25, observers reported the presence of two sea otters within the survey area and more than 200 harbor seals outside of the survey area. A post-event monitoring survey found no injured or dead animals.

Finally, pre-event monitoring of the Monte Foundation Fireworks Display on October 10 found two harbor seals and one to two dozen California sea lions 500 yards offshore the Seacliff Beach area. On October 12, the observers reported that there were no injured or dead marine mammals.

In summary, the total number of potentially harassed California sea lions (406) and harbor seals (14) for all fireworks displays, was well below the authorized limits as stated in the final rule (71 FR 40928, July 19, 2006).

No dead or injured marine mammals were reported for any of the events. Hence, these monitoring results support NMFS' initial findings that fireworks display will result in no more than Level B behavioral harassment of small numbers of California sea lions and harbor seals and that the effects will be limited to short term behavioral changes, including temporary abandonment of haul-out areas to avoid the sights and sounds of commercial fireworks.

Authorization

NMFS has issued an LOA to MBNMS authorizing the Level B harassment of marine mammals incidental to the coastal commercial fireworks display within the Sanctuary. Issuance of this LOA is based on the results of the MBNMS 2008 monitoring report which verify that the total number of potentially harassed sea lions and harbor seals was well below the authorized limits as stated in the final rule (71 FR 40928, July 19, 2006). Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. No mortality or injury of affected species is anticipated.

Dated: June, 19, 2009

James H. Lecky,

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

[FR Doc. E9–14878 Filed 6–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement on an Application for a Department of the Army Permit Under Section 404 of the Clean Water Act by The Sabine Mining Company for the Construction, Operation, and Reclamation of the South Hallsville No. 1 Lignite Mine—Rusk Permit Area, Rusk, Panola, and Harrison Counties, TX

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Fort Worth District (USACE) has received an application for a Department of the Army permit under Section 404 of the Clean Water Act (CWA) from The Sabine Mining Company (SMC) to construct, operate, and reclaim the South Hallsville No. 1 Lignite Mine—Rusk Permit Area. In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the USACE has determined that issuance of such a permit may have a significant impact on the quality of the human environment and, therefore, requires the preparation of an Environmental Impact Statement (EIS).

The USACE intends to prepare an EIS to assess the environmental, social, and economic effects of issuance of a Department of the Army permit under Section 404 of the CWA for discharges of dredged and fill material into waters of the United States (U.S.) associated with the construction of the proposed surface lignite mine. In the EIS, the USACE will assess potential impacts associated with a range of alternatives.

DATES: A public scoping meeting will be held on Tuesday, July 7, 2009, from 5 p.m. to 8 p.m. The purpose of this meeting is to disseminate information about the proposed project and its potential effects to the human environment, and to seek public comments on the scope of the proposed project.

ADDRESSES: The public scoping meeting will be held at the Tatum Middle School, 410 North Hill, Tatum, Texas.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about the proposed action and EIS, please contact Ms. Jennifer R. Walker, Regulatory Permits Section Chief, by letter at Regulatory Branch, CESWF–PER–R, U.S. Army Corps of Engineers, P.O. Box 17300, Fort Worth, TX 76102–0300 or by telephone at (817) 886–1863.

SUPPLEMENTARY INFORMATION:

1. *Description of the Proposed Project:* The proposed South Hallsville No. 1 Lignite Mine—Rusk Permit Area would be located approximately 1 mile north of the City of Tatum, Rusk County, Texas. The approximately 20,377-acre mine site would recover approximately 130 million tons of lignite during the 30-year life of the mine, for sole use at the existing H.W. Pirkey Power Plant, which is owned and operated by American Electric Power (AEP). Overall, the proposed project would result in adverse impacts to approximately 300 acres of waters of the U.S., including approximately 186 acres of wetlands, 65 acres of ponds, and approximately 349,320 linear feet of streams, including a navigable reach of the Sabine River. Adverse impacts would occur in conjunction with the removal and stockpiling of overburden and interburden in an effort to recover approximately 90% of the in-place tonnage. As part of this project, several public roads, approximately 400 gas wells, and approximately 350 miles of pipeline would require modification. Other potential adverse effects associated with this project would include loss of forested floodplain and upland habitats, impacts to archeological sites, relocation of residential dwellings and one cemetery, and cumulative effects associated with the operation of four surface lignite mines within an approximately 20-mile radius.

2. *Alternatives:* Alternatives available to the USACE are to: (1) Issue the Department of the Army permit; (2) issue the Department of the Army permit with special conditions; or (3) deny the Department of the Army permit. Alternatives available to SMC include: (1) Construct, operate, and

reclaim the South Hallsville No. 1 Lignite Mine—Rusk Permit Area as proposed by SMC; (2) construct, operate, and reclaim the South Hallsville No. 1 Lignite Mine—Rusk Permit Area with modifications; (3) develop or acquire other lignite supply sources; or (4) no action.

3. *Scoping and Public Involvement Process:* A public scoping meeting to disseminate information about the proposed project and its potential effects to the human environment, and to seek public comments on the proposed project will be conducted (see **DATES** & **ADDRESSES**). A Public Notice will be issued June 23, 2009, to extend the opportunity for Federal, State, and local agencies and officials, and interested individuals to further comment on the proposed project and the scope of the EIS.

4. *Significant Issues:* Issues to be given significant analysis in the EIS are likely to include, but will not be limited to: The effects to surface water and groundwater resources, including water quantity and quality, effects on the immediate and adjacent property owners and nearby communities, downstream hydraulics and hydrology, geologic resources, vegetation, fish and wildlife, threatened and endangered species, soils, prime farmland, noise, light, aesthetics, historic and pre-historic cultural resources, socioeconomics, land use, public roads, and air quality.

5. *Cooperating Agencies:* At this time, no other Federal or State agencies have been established as cooperating agencies in preparation of the EIS. However, numerous federal and state agencies, including the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Texas Commission on Environmental Quality, the Texas Parks and Wildlife Department, the Railroad Commission of Texas, and the Texas Historical Commission are expected to be involved in the preparation of, and provide comments on, the EIS.

6. *Additional Review and Consultation:* Compliance with other Federal and State requirements that will be addressed in the EIS include, but will not be limited to, state water quality certification under Section 401 of the Clean Water Act, protection of water quality under the Texas Pollutant Discharge Elimination System, protection of air quality under the Texas Air Quality Act, protection of endangered and threatened species under Section 7 of the Endangered Species Act, and protection of cultural resources under Section 106 of the National Historic Preservation Act.

7. *Availability of the Draft EIS:* The Draft EIS is projected to be available by August 2009. A public hearing will be conducted following the release of the Draft EIS.

Stephen L. Brooks,

Chief, Regulatory Branch.

[FR Doc. E9–14836 Filed 6–23–09; 8:45 am]

BILLING CODE 3720–58–P

DELAWARE RIVER BASIN COMMISSION

Notice of Revised Methodology for the Delaware River and Bay Integrated List Water Quality Assessment

AGENCY: Delaware River Basin Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the methodology proposed to be used in the 2010 Delaware River and Bay Integrated List Water Quality Assessment is available for review and comment. The proposed methodology is a substantially modified version of the methodology used for the 2008 assessment.

DATES: Comments must be received in writing by close of business on August 14, 2009.

ADDRESSES: Comments will be accepted via e-mail to *john.yagecic@drbc.state.nj.us*; via fax to 609–883–9522; by U.S. Mail to DRBC, Attn: Integrated Assessment 2010, P.O. Box 7360, West Trenton, NJ 08628–0360; via private carrier to DRBC, Attn: Integrated Assessment 2010, 25 State Police Drive, West Trenton, NJ 08628–0360; or by hand. All submissions should have the phrase ''Integrated Assessment 2010'' in the subject line and should include the name, address (street address optional) and affiliation, if any, of the commenter.

FOR FURTHER INFORMATION CONTACT: Mr. John Yagecic, Supervisor, Standards and Assessment Section, DRBC Modeling, Monitoring and Assessment Branch, via e-mail to *john.yagecic@drbc.state.nj.us* or by telephone to 609–883–9500, ext. 271.

SUPPLEMENTARY INFORMATION: The Delaware River Basin Commission (''DRBC'' or ''Commission'') is an interstate and Federal compact agency that was created in 1961 by concurrent legislation of the States of Delaware, New Jersey, and New York, the Commonwealth of Pennsylvania and the United States Government for purpose of jointly managing the water resources of the Delaware River Basin.

DRBC currently is compiling data for the 2010 Delaware River and Bay Integrated List Water Quality Assessment (''2010 Assessment'') required by the federal Clean Water Act (CWA). The 2010 Assessment will present the extent to which waters of the Delaware River and Bay are attaining designated uses in accordance with Section 305(b) of the CWA and will identify impaired waters, which consist of waters that exceed surface water quality standards.

Substantial changes from the 2008 methodology have been proposed, including the consideration of biological monitoring results in the assessment process. The assessment methodology to be used in the 2010 Assessment is available for review at the following URL: *http://www.state.nj.us/drbc/10IntegratedList-DraftMethod.htm*.

In the 2008 Assessment DRBC proposes to reduce the number of assessment units from the number used in 2006 by consolidating the units into DRBC's Water Quality Management Zones 1A, 1B, 1C, 1D, 1E, 2, 3, 4, and 5, the boundaries of which are defined in DRBC's Water Quality Regulations (18 CFR Part 410), available on the Web at *http://www.state.nj.us/drbc/regs/WQRegs_092607.pdf*. The 2008 Assessment will continue, however, to include subunits within Zone 6 that are defined in part by shellfish management directives issued by the States of Delaware and New Jersey. The 2010 Assessment will continue this process and also will include consideration of biological monitoring results.

June 17, 2009.

Pamela M. Bush,

Commission Secretary.

[FR Doc. E9–14749 Filed 6–23–09; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 24, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs,

Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, and be faxed to (202) 395–5806 or send e-mail to *oira_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 19, 2009.

Stephanie Valentine,

Acting Information Collection Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: New.

Title: Evaluation of the Teacher Incentive Fund (TIF) Program: Data Collection Instruments.

Frequency: On occasion.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 393.
Burden Hours: 393.

Abstract: To assist schools in attracting, retaining and motivating effective teachers and principals, in 2006 the U.S. Department of Education launched the Teacher Incentive Fund, which supports comprehensive compensation reform activities including bonus pay-for-performance (PFP), career advancement and professional development. The purpose of this evaluation is to describe the implementation of the program and its relationship to any increases in recruitment and retention of effective teachers and principals. If feasible, this evaluation will also seek to analyze TIF's relationship to increasing student achievement.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3999. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–14839 Filed 6–23–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13498–000]

SARA, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

June 17, 2009.

On June 2, 2009, SARA, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the SWAVE Catalina Green Wave Energy Project, located in the Pacific Ocean approximately 0.75 mile off the west coast of Santa Catalina Island, on submerged lands of the State of California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The project would consist of an array of 10–40 SWAVE buoys, mounted in a staggered array in about 225 to 300 feet of water. The project zone is a rectangle about 0.5 nautical mile wide by 1.75 nautical miles long. The exact layout of the buoy array would be determined once a oceanographic site survey has been completed. The units would be designed with a peak capacity of 150 kilowatts each, for a total peak capacity of the 1.5–6 megawatts. The buoys would be secured in place with a mooring system. The buoys themselves would be easy to disconnect from their mooring to allow easy removal in the case they are found to cause environmental damage. The buoy array would be connected to an underwater junction box and that conditions the power and transmits it to shore in the vicinity of the city of Avalon through a high-voltage power transmission cable.

Applicant Contact: Dr. Parvis Parhami, CEO, SARA, Inc., 6300 Gateway Drive, Cypress, CA 90630; phone: (714) 224–4410.

FERC Contact: John M. Mudre, (202) 502–8902.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13498) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14793 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 15, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–40–001.
Applicants: Puget Energy, Inc.; Puget Holdings LLC; Macquarie Infrastructure Partners; Macquarie-FSS Infrastructure Trust; Macquarie Capital Group Limited; Canada Pension Plan Investment Board; British Columbia Investment Management Co; Alberta Investment Management
Description: Supplemental Information of Puget Holdings LLC in Response to the Commission's April 17, 2008 Order.
Filed Date: 06/11/2009.
Accession Number: 20090611–5129.
Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09–51–000.
Applicants: Northern Colorado Wind Energy, LLC.
Description: Northern Colorado Wind Energy, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 06/12/2009
Accession Number: 20090612–5136.
Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–1361–015; ER98–4138–011; ER99–2781–013; ER98–3096–017; ER01–202–010; ER00–1770–021; ER02–453–012; ER04–472–009; ER05–1054–005; ER07–903–004; ER08–1336–002; ER09–886–002.
Applicants: Atlantic City Electric Co.; Potomac Electric Power Company; Delmarva Power & Light Company; Pepco Power Resources, LLC; Potomac Power Resources, LLC; Conective Energy Supply, Inc.; Conectiv Atlantic Generation, LLC; Conectiv Delmarva Gerneration, Inc.; Conectiv Bethlehem, LLC; Fauquier Landfill Gas, LLC; Eastern Landfill Gas, LLC; Bethlehem Renewable Energy, LLC; Energy Systems North East, LLC; Conectiv Vineland Solar, LLC
Description: Notification of Change in Status of Atlantic City Electric Company.
Filed Date: 06/12/2009
Accession Number: 20090612–5063.
Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Docket Numbers: ER99–2342–012.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits revised tariff page to correctly identify the tariff pursuant to Order 697–A, effective as of 9/18/07.
Filed Date: 06/10/2009.
Accession Number: 20090612–0041.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 1, 2009.

Docket Numbers: ER08–502–001.
Applicants: Linde Energy Services, Inc.
Description: Application for Category 1 Seller Status of Linde Energy Services, Inc.
Filed Date: 06/11/2009.
Accession Number: 20090611–0078.
Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Docket Numbers: ER09–938–000.
Applicants: Central Maine Power Company.
Description: Central Maine Power Company's Response to Request for Information.
Filed Date: 06/09/2009.
Accession Number: 20090609–5001.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 30, 2009.

Docket Numbers: ER09–1020–001.
Applicants: Panoche Energy Center, LLC.
Description: Panoche Energy Centerm, LLC submits a revised Appendix B of the Market-Based Rate Authority and Generation Assets listings.
Filed Date: 06/11/2009.
Accession Number: 20090612–0018.
Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Docket Numbers: ER09–1075–003.
Applicants: Falcon Energy LLC.
Description: Amended, Revised and Restated App for Market- Based Rate Authorization and Request for waivers and blanket authorizations and request for expedited treatment of Falcon Energy, LLC.
Filed Date: 06/10/2009.
Accession Number: 20090611–0083.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 01, 2009.

Docket Numbers: ER09–1121–001.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits Substitute Sixth Revised Sheet 219 *et al* to Third Revised Rate Schedule FERC No 24.
Filed Date: 06/10/2009.
Accession Number: 20090611–0082.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 1, 2009.

Docket Numbers: ER09–1232–001.
Applicants: Holland Energy, LLC.
Description: Holland Energy, LLC submits Substitute Third Revised Sheet 2 *et al* to its FERC Electric Tariff, Original Volume 1 to change effective date from 5/28/09 to 5/30/09.
Filed Date: 06/10/2009.
Accession Number: 20090611–0081.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 1, 2009.

Docket Numbers: ER09–1266–000.
Applicants: North Western Energy.
Description: NorthWestern Corporation submits Second Revised Sheet 25 and 26 to Rate Schedule FERC 188 *et al.*
Filed Date: 05/29/2009.
Accession Number: 20090605–0067.
Comment Date: 5 p.m. Eastern Time on Friday, June 19, 2009.

Docket Numbers: ER09–1283–000.
Applicants: Energy Cooperative of Pennsylvania, Inc.
Description: The Energy Cooperative of Pennsylvania, Inc submits FERC Electric Tariff, Original Volume 1.
Filed Date: 06/12/2009.
Accession Number: 20090615–0014.
Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Docket Numbers: ER09–1284–000.
Applicants: Rugby Wind, LLC.
Description: Rugby Wind LLC submits application requesting acceptance of FERC Electric Tariff, Original Volume No 1 effective 8/11/09 *et al.*
Filed Date: 06/12/2009.
Accession Number: 20090615–0028.
Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Docket Numbers: ER09–1285–000.
Applicants: Streator-Cayuga Ridge Wind Power, LLC.
Description: Application of Streator-Cayuga Ridge Wind Power LLC for order accepting initial tariff and granting blanket approvals, including blanket approval under 18 CFR Part 34 for all future issuances of securities and assumptions of liabilities.
Filed Date: 06/12/2009.
Accession Number: 20090615–0027.
Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Docket Numbers: ER09–1286–000.
Applicants: Elizabethtown Energy, LLC.
Description: Elizabethtown Energy, LLC submits Application for Acceptance of Initial Tariff *et al.*
Filed Date: 06/10/2009.
Accession Number: 20090611–0080.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 1, 2009.

Docket Numbers: ER09–1287–000.
Applicants: Lumberton Energy, LLC.
Description: Lumberton Energy, LLC submits Application for Acceptance of

Initial Tariff, Blanket Authority, Request for Expedited Consideration, and Waiver of the Prior Notice Requirement.

Filed Date: 06/10/2009.

Accession Number: 20090611–0079.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 1, 2009.

Docket Numbers: ER09–1295–000.

Applicants: El Paso Electric Company.

Description: El Paso Electric Company Request for Waiver Authorization Pursuant to Section 205.

Filed Date: 06/12/2009.

Accession Number: 20090612–5047.

Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Docket Numbers: ER09–1292–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc submits a revised version of Schedule 2 to the Joint Open Access Transmission Tariff of the Common Use System, to be effective 6/12/09.

Filed Date: 06/11/2009.

Accession Number: 20090612–0016.

Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Docket Numbers: ER09–1293–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits revised sheets to the Amended and Restated Coolwater Generating Station Radial Lines Agreement with Reliant Energy Coolwater, Inc.

Filed Date: 06/11/2009.

Accession Number: 20090612–0017.

Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Docket Numbers: ER09–1294–000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company submits revisions to the Control Area Operations Coordination Agreement with Wisconsin Power and Light Company, effective July 2009.

Filed Date: 06/11/2009.

Accession Number: 20090612–0019.

Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Docket Numbers: ER09–1296–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy submits Original Sheet 1 *et al.* to Rate Schedule FERC 322.

Filed Date: 06/11/2009.

Accession Number: 20090615–0015.

Comment Date: 5 p.m. Eastern Time on Thursday, July 2, 2009.

Docket Numbers: ER09–1298–000.

Applicants: Xcel Energy Services Inc.

Description: Xcel Energy Services, Inc. submits Notice of Termination of their Market Based Rate Tariff, FERC Electric Tariff, First Revised Volume 1.

Filed Date: 06/12/2009.

Accession Number: 20090615–0016.

Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Docket Numbers: ER09–1299–000.

Applicants: Idaho Power Company.

Description: Idaho Power Co. submits an amended sheet to the Restated Transmission Service Agreement with PacifiCorp.

Filed Date: 06/12/2009.

Accession Number: 20090615–0029.

Comment Date: 5 p.m. Eastern Time on Monday, July 6, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–14782 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR09–12–000]

BP West Coast Products LLC, Complainant v. SFPP, L.P. Respondent; Notice of Complaint

June 17, 2009.

Take notice that on June 15, 2009, BP West Coast Products LLC (''BP'') filed a formal complaint against SFPP, L.P. (''SFPP'') pursuant to sections 1(5), 8, 9, 13, 15, and 16 of the Interstate Commerce Act, 49 U.S.C. App. 1(5), 8, 9, 13, 15, and 16 (1988), section 1803 of the Energy Policy Act of 1992, and section 343.2 and Rule 206 of the Commission's Regulations, 18 CFR 343.2 and 385.206, seeking an audit of SFPP's 2007 and 2008 FERC Form 6 in connection with SFPP's 2009 index rate increases to become effective July 1, 2009. BP requests that the Commission review and audit the underlying components of Page 700 of SFPP's FERC Forms 6 for 2007 and 2008.

BP certifies that copies of the complaint were served on both counsel for SFPP and the contacts for SFPP listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies

of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 6, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14792 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR09–11–000]

BP West Coast Products LLC Complainant v. Calnev Pipe Line, L.L.C. Respondent; Notice of Complaint

June 17, 2009.

Take notice that on June 15, 2009, pursuant to section 206 of the Rules and Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, section 343.2 of the Procedural Rules applicable to oil pipeline proceedings, 18 CFR 343.2, sections 1(5), 8, 9, 13, 15, and 16 of the Interstate Commerce Act, 49 USC App. 1(5), 8, 9, 13, 15, and 16 (1988), and section 1803 of the Energy Power Act of 1992, BP West Coast Products LLC (Complainant) filed a formal complaint against Calnev Pipe Line, L.L.C. (Respondent) seeking an audit of the Respondent's 2007 and 2008 FERC Forms 6 in connection with the Respondent's 2009 index rate increases to become effective July 1, 2009.

The Complainant certifies copies of the complaint were served on both the counsel for the Respondent and the contacts of the Respondent listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 6, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14791 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Efficiency and Conservation Block Grant Program

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE is announcing an appeals process for eligibility determinations published in the funding opportunity announcement issued under the Energy Efficiency and Conservation Block Grant (EECBG) program. This notice specifies the issues that can be appealed, the process for filing an appeal, and the procedure applicable to adjudicate such appeals. All appeals will be reviewed by the DOE Office of Hearings and Appeals (OHA). The deadline for submitting an appeal with OHA is 30 days following the publication of this notice.

DATES: All appeals must be filed, as described in the **SUPPLEMENTARY INFORMATION** section of this notice, no later than July 24, 2009.

FOR FURTHER INFORMATION CONTACT: For questions regarding the EECBG Program contact EERE's Information Center, at *http://www1.eere.energy.gov/informationcenter/,* or call toll-free at 1–877–EERE–INFO (1–877–337–3463), between 9 a.m. and 7 p.m. EST, Monday through Friday.

For questions regarding the EECBG appeals process contact Fred L. Brown, Deputy Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585–0107, (202) 287–1545, *Fred.Brown@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Independence and Security Act of 2007 (EISA) established the Energy Efficiency and Conservation Block Grant (EECBG) Program, which provides, in part, for a direct formula grant program for States, eligible units of local government, and Indian Tribes. (42 U.S.C. 17151–17158) On April 15, 2009, DOE published in the **Federal Register** formulas for allocation of direct grants under the EECBG Program. 74 FR 17461. DOE also published a funding opportunity announcement that identified the ''eligible units of local government,'' Funding Opportunity Number: DE–FOA–0000013, Amendment 00003 (available at: *http://www.eecbg.energy.gov/*).

For the purpose of the EECBG program, an ''eligible unit of local government'' was defined by EISA to be a city or county that met population thresholds specified in statute. (42 U.S.C. 17151) Further, to be defined as an ''eligible unit of local government,'' DOE determined that a geographical subdivision also must have a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA. EISA specifically enumerated the following activities as activities that achieve the purpose of the EECBG Program—

(1) Development and implementation of an energy efficiency and conservation strategy as required by EISA;

(2) Retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—

(A) Formulation of energy efficiency, energy conservation, and energy usage goals;

(B) Identification of strategies to achieve those goals—

(i) Through efforts to increase energy efficiency and reduce energy consumption; and

(ii) By encouraging behavioral changes among the population served by the eligible entity;

(C) Development of methods to measure progress in achieving the goals;

(D) Development and publication of annual reports to the population served by the eligible entity describing the goals and progress in achieving the goals;

(E) Other services to assist in the implementation of the energy efficiency and conservation strategy;

(3) Conducting residential and commercial building energy audits;

(4) Establishment of financial incentive programs for energy efficiency improvements;

(5) The provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;

(6) Development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including—

(A) Design and operation of the programs;

(B) Identifying the most effective methods for achieving maximum participation and efficiency rates;

(C) Public education;

(D) Measurement and verification protocols; and

(E) Identification of energy efficient technologies;

(7) Development and implementation of programs to conserve energy used in transportation, including—

(A) Use of flex time by employers;

(B) Satellite work centers;

(C) Development and promotion of zoning guidelines or requirements that promote energy efficient development;

(D) Development of infrastructure, such as bike lanes and pathways and pedestrian walkways;

(E) Synchronization of traffic signals; and

(F) Other measures that increase energy efficiency and decrease energy consumption;

(8) Development and implementation of building codes and inspection services to promote building energy efficiency;

(9) Application and implementation of energy distribution technologies that significantly increase energy efficiency, including—

(A) Distributed resources; and

(B) District heating and cooling systems;

(10) Activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;

(11) The purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills or similar sources;

(12) Replacement of traffic signals and street lighting with energy efficient lighting technologies, including—

(A) Light emitting diodes; and

(B) Any other technology of equal or greater energy efficiency;

(13) Development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including—

(A) Solar energy;

(B) Wind energy;

(C) Fuel cells;

(D) Biomass; and

(14) Any other appropriate activity, as appropriately determined by the Secretary of Energy.

(42 U.S.C. 17154)

Therefore, for the purpose of the EECBG Program, DOE defined ''eligible unit of local government'' as a city or county that—

• Is listed in the U.S. Census Bureau's 2007 Edition of the Governments Integrated Directory (2007 GID) as a currently incorporated entity;

• Meets the required population threshold according to the Population Estimates Program 2007 population estimates (including successful challenges to these estimates) published by the U.S. Census Bureau;

• Is identified by the 2007 Census of Governments as having a governance structure consisting of an elected official and governing body; and (perhaps most particularly)

• Has a governing structure, as indicated by the 2007 Census data, with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs.

In determining population, DOE used the Census 2007 Population Estimates Program population estimates with updates to reflect challenges to the 2007 population estimates submitted to and accepted by the Census Bureau. The list of successful challenges can be found at *http://www.census.gov/popest/archives/2000s/vintage_2007/07s_challenges.html.*

For the purposes of the EECBG program, DOE included the following clarifications to the records used to calculate which cities were ''eligible units of local government:''

• In the Commonwealth of Puerto Rico, Municipios were treated as cities. Though designated as counties by the Census, governments of Municipios have the functionality of city governments.

• Towns, townships and boroughs listed as incorporated Places tabulated by the U.S. Census Bureau for the Department of Housing and Urban Development's Community Development Block Grant Program were treated as cities. The governments of these places have the functionality of city governments.

• For those populations residing in one incorporated place that is within the geographic boundary of another incorporated place, DOE credited the population to the first incorporated place. For example, for a town listed in the 2007 GID as an incorporated entity that has within its geographic boundaries a village listed in the 2007 GID, the village population was subtracted from the town population. DOE assumed that an entity listed as incorporated by the 2007 GID has a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA. Therefore, DOE subtracted the population of the village from the total population of the town in which the village is located to avoid double-counting of populations.

• A consolidated or unified city-county government in which a city and a county overlap geographically and govern as one consolidated government was considered by DOE as an eligible city. City-county governments have the functionality of city governments.

74 FR 17462. As indicated previously, to be defined as an ''eligible unit of local government,'' DOE determined that a geographical subdivision must have the requisite population, but also must have a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA. Some counties, for example, are vested with no governmental authority whatsoever.

In determining whether particular county governments have the types of functions and authority necessary to support the programs EISA directs DOE to fund, DOE relied on the 2007 Census of Governments, published by the U.S. Census Bureau. A county that has the requisite population, but has an associated government that, as described by the 2007 Census of Governments, has ''relatively few [governmental] responsibilities,'' or an equivalent evaluation, was understood to lack the government functions and authority necessary to discharge the energy efficiency and conservation programs and projects identified by EISA. Such local entities with limited responsibilities are not units of local ''government'' for the purpose of defining eligibility under the EECBG Program.

Additionally, EISA distinguishes between cities that are eligible units of local government and counties that are eligible units of local government. Consistent with the EISA distinction, DOE distinguished the population of a city that met the requisite population threshold for an eligible unit of local government from the population of the county in which that city is situated. For the purpose of the EECBG Program, DOE removes the population of an

eligible city in determining the population of a county.

By removing the population of an eligible city in determining the population of a county, DOE reduced the instances in which a person would be double-counted, *i.e.*, counted once for determination of a city's eligibility and again in determining a county's eligibility. This distinction between city and county populations yields a determination of eligibility that results in funds being distributed more on a per capita basis, which DOE believes is one way to provide greater equity in the allocation of funds between cities and counties under the direct formula grants.

A complete discussion of how DOE determined whether a city or county is an ''eligible unit of local government'' is provided in the April 15, 2009, **Federal Register** notice (74 FR 17461).

II. Issues Giving Rise to the Appeals Process

As indicated above, DOE applied four factors in the evaluation of whether a city or county qualifies as ''eligible unit of local government'' for the purpose of the EECBG Program. A city or county is an ''eligible unit of local government'' under the EECBG Program if it—

- Is listed in the 2007 GID as an incorporated entity;
- Meets the required population threshold according to the Population Estimates Program 2007 population estimates (including successful challenges to these estimates) published by the U.S. Census Bureau;
- Is identified by the 2007 Census of Governments as having a governance structure consisting of an elected official and governing body; and
- Has a governing structure, as indicated by the 2007 Census data, with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs.

DOE relied on the 2007 Census data and information in evaluating each factor, as it is the official government source for this type of data and information. Moreover, the U.S. Census Bureau provided an opportunity for local governments to request corrections to the 2007 data and information. That process closed on January 5, 2009. Additional information on the U.S. Census Bureau population estimates process can be found at *http://www.census.gov/popest/estimates.html*.

A. Assumption Regarding Government Function and Jurisdiction

In evaluating the four factors, DOE relied on the characterization of city and county governing structures to determine whether cities and counties had sufficient jurisdiction and government function to carry out the activities set forth in Title V, Subtitle E of the EISA. However, the characterization of city and county governments in the 2007 Census data was not in the context of the EECBG Program. DOE recognizes that the characterization of the governing structure of a city or county may not have been sufficiently informative for the purpose of determining eligibility under the EECBG Program. As such, there are two specific instances in which the characterization of a city or county government may be reviewable on appeal.

The first instance in which the characterization of government may not have been sufficiently informative, and therefore reviewable on appeal, is for those counties (or county equivalents) listed by the 2007 Census of Governments as having limited governmental functions. As stated earlier in this notice, DOE determined that in order to be an ''eligible unit of local government,'' a geographical subdivision must not only have the requisite population but also must have a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA, and listed earlier in this notice. The Department deemed ineligible those counties characterized by the 2007 Census of Governments as having limited governmental function. The capability of a county to discharge the broad range of programs authorized by the EISA is reviewable on appeal.

If a county (or county equivalent) was determined to be ineligible by DOE based on the 2007 Census of Governments characterization of government function, that county would need to demonstrate on appeal that it has the jurisdiction and functional capabilities necessary to carry out the types of projects identified by EISA. The information provided on the appeal should be authoritative but need not be exhaustive. The appeal should demonstrate that the county (or county equivalent) is capable of implementing programs or projects that are consistent with those listed by EISA as activities that further the goals of EECBG. A county (or county equivalent) may include previous examples where the applicant has carried out such activities.

The second instance in which the characterization of government by the 2007 Census data may not have been sufficiently informative, and therefore reviewable on appeal, involves the assumption by DOE that a city (or city equivalent) listed by the 2007 GID as an incorporated entity has a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA. Based on this assumption, DOE subtracted from the population of an incorporated city (or city equivalent) the population of an incorporated city (or city equivalent) that is located within the boundaries of the first incorporated city. DOE adjusted population in this manner so as to avoid double-counting the population of two potentially eligible entities. However, in some instances the ''nested city'' (*i.e.*, the city located within the boundaries of another city) may not have sufficient jurisdiction and government function to carry out the types of programs identified in EISA and in turn rely on the larger city for such services.

If DOE determined that a city (or city equivalent) was ineligible because it did not have the requisite population and the population relied on by DOE excluded the population of a ''nested city,'' that city (or city equivalent) would need to demonstrate that the ''nested city'' lacks sufficient jurisdiction and government function to carry out the types of projects listed in EISA, and the ''nested city'' relies on the appellant city for such services. Again, the information provided on the appeal should be authoritative but need not be exhaustive. The appeal should demonstrate that the larger city provides services to the ''nested city'' of the type necessary to implement programs or projects that are consistent with those listed by EISA. A city (or city equivalent) may include previous examples where the applicant has carried out such activities.

B. Corrections to the 2007 Census Data

As indicated above, DOE used the Census 2007 Population Estimates Program population estimates with updates to reflect challenges to the 2007 population estimates submitted to and accepted by the Census Bureau. However, a unit of local government may appeal an eligibility determination that was based upon 2007 Census data that was successfully challenged, but the successful challenge was not reflected in the DOE's determination of eligibility. An appeal based on this issue would need to provide documentation of a successful challenge to the 2007 Census data.

C. Issues Not Reviewable on Appeal

Issues regarding the methodology established by DOE to determine the population of a city or county are not reviewable on appeal. For example, the

decision by DOE to exclude the population of an eligible city from the population of the county in which the city is located is not reviewable on appeal.

Additionally, the determination of DOE to rely on the 2007 Census data is not reviewable on appeal. DOE recognizes that more recent data have been made available by the U.S. Census Bureau. However, in order to provide certainty as to the funding levels of entities determined to be ''eligible units of local government,'' DOE relied on the most recent data available at the time the formula allocations were announced. The availability of updated (as opposed to corrected 2007 data) is not reviewable on appeal.

III. Opportunity to Appeal

DOE is providing cities and counties an opportunity to appeal to OHA a determination of ineligible under the EECBG Program. The appeals process, including an explanation of issues reviewable on appeal, is provided in the following section.

If an appeal is granted, appellant will have 30 days in which to file an application for funding under the direct formula grant provision of EECBG. The application must be consistent with the application requirements provided in Funding Opportunity Number: DE–FOA–0000013, Amendment 00003 (available at *http://www.eecbg.energy.gov/*). Allocation of funding to a city or county resulting from a Decision and Order by OHA shall not affect any previous allocation made by DOE to other eligible units of local government.

IV. EECBG Eligibility Appeals Procedure

These procedures may be cited as the Department of Energy (DOE) Energy Efficiency and Conservation Block Grant Program Appeals Procedures (EECBGAP).

A. Who may appeal?

Any unit of local government determined to be ineligible to receive a direct formula grant under the Energy Efficiency and Conservation Block Grant Program (''EECBG Program''), based upon eligibility criteria established by the U.S. Department of Energy, 74 FR 17461 (April 15, 2009).

B. What eligibility determinations are appealable?

A unit of local government may file an appeal under these procedures where it has been denied eligibility for the EECBG Program based: (1) Upon a determination that it is incapable of carrying out activities set forth in Title V, Subtitle E of the Energy Independence and Security Act of 2007, Public Law 110–140 (EISA); (2) upon an adjustment to its population as the result of a determination that another entity that is located within its borders is capable of carrying out activities set forth in Title V, Subtitle E of EISA; or (3) upon 2007 Census data that was corrected by the U.S. Census Bureau, but the correction was not reflected in the Department's determination of eligibility.

Except as specified in IV.B.(2) and (3) in the preceding paragraph, a denial of eligibility for the EECBG Program for failure to meet required population thresholds, based upon 2007 U.S. Census estimate data, is not appealable under these procedures.

C. What must the appeal contain and what is the standard of review?

The appeal shall contain a concise statement of the ground(s) upon which the excluded entity contests denial of eligibility under the EECBG Program and the remedy sought.

The appeal should include any data, documentation or other relevant information supporting a showing by the appellant that the denial of eligibility under the EECBG Program is erroneous, not supported by the whole record, or is arbitrary and capricious. The appeal shall also state whether the appellant is requesting a conference or hearing regarding the appeal.

The appeal shall include a signed certification stating that the facts contained in the appeal are, to the best knowledge of the applicant, true.

D. How should the appeal be filed?

Any appeal, including attachments, should be electronically filed with the Office of Hearings and Appeals (OHA), U.S. Department of Energy, at: *OHA.filings@hq.doe.gov*.

Alternatively, appeals and other associated documents, may be mailed to: Office of Hearings and Appeals (OHA), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0107. Appellants may also hand-deliver appeals and associated documents to OHA at Room 7117, 950 L'Enfant Plaza, SW., Washington, DC 20585, during official filing hours. Official filing hours are from 1:30 to 4 p.m., Monday through Friday.

Upon receipt, OHA will confirm receipt of the appeal and assign a case number to the filing.

E. What are the steps in the process?

(1) Any appeal under these procedures must be filed within thirty days (30) of the date of publication in the **Federal Register** of the notice announcing the present appeals process and procedures.

(2) In evaluating an appeal, OHA may require the submission of additional information by the appellant regarding any statement in an appeal. OHA may also solicit and accept submissions of relevant information from other sources, provided that the appellant is afforded an opportunity to respond to all such submissions. OHA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal. OHA will determine the scope and format of any conference or hearing convened under these procedures, as well as the parties allowed to participate.

(3) OHA may issue an order summarily dismissing an appeal if: (a) Not filed by a unit of local government that was found ineligible under the EECBG Program; (b) not filed in a timely manner, unless good cause is shown; (c) the filing is defective on its face; or (d) there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted.

(4) Within forty-five (45) days of receiving all required information, OHA shall issue a written decision granting or denying the appellant eligibility to apply for a direct formula grant under the EECBG Program. The decision shall include a written statement setting forth the relevant facts and basis for the determination. Upon issuance, OHA shall serve an electronic version of the decision upon the appellant and the DOE Office of Energy Efficiency and Renewable Energy. The decision will also be published on the OHA Web site: *http://www.oha.doe.gov*. The decision of OHA shall constitute final agency action and the appellant's final right of administrative review regarding eligibility under the EECBG Program.

(5) All expenses incurred in pursuing any appeal before OHA shall be borne exclusively by the appellant(s).

Issued in Washington, DC, on June 19, 2009.

Steven G. Chalk,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E9–14891 Filed 6–23–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF09–1–000]

Tennessee Gas Pipeline Company; Supplemental Notice of Intent to Prepare an Environmental Assessment for the Planned 300 Line Project and Request for Comments on Environmental Issues

June 17, 2009.

As previously noticed on February 4, 2009, and supplemented herein, the staff of the Federal Energy Regulatory Commission (FERC or Commission) is preparing an environmental assessment (EA) that will discuss the environmental impacts that could result from the construction and operation of the 300 Line Project. The project is planned by Tennessee Gas Pipeline Company (TGP) to expand the natural gas transportation capacity of its existing 300 Line pipeline in northern Pennsylvania and northwestern New Jersey. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This Supplemental Notice of Intent (NOI) announces the opening of a limited scoping period the Commission will use to gather input from the public and interested agencies on a new alternative which will be included in the EA, identified as the Eastern Alternative Loop. This alternative consists of about 2.2 miles at the eastern end of the planned Loop 325 in Passaic County, New Jersey and would replace 2.0 miles at the western end of Loop 325. Use of the alternative would avoid crossing the Wallkill River National Wildlife Refuge (WRNWR) in Sussex County, New Jersey, if it is found to be feasible in meeting the project objectives. Your input will help determine what issues need to be evaluated in the EA regarding use of the Eastern Alternative Loop. Please note that this limited scoping period will close on July 17, 2009.

This notice is being sent to landowners who would be affected by the Eastern Alternative Loop (including those that would no longer be affected by the 300 Line Project if this alternative is ultimately approved by the Commission); Federal, State, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. We encourage government representatives to notify their constituents of the Eastern Alternative Loop and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the planned facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the 300 Line Project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with State law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

TGP plans to request authorization to construct, own, and operate the facilities necessary to increase natural gas delivery capacity to the northeast region of the United States by approximately 300,000 dekatherms per day. In addition to increasing natural gas delivery capacity to the region, TGP would also upgrade certain existing compressor units to improve overall system reliability.

The 300 Line Project would consist of the following facilities:

- Installation of approximately 128.4 miles of new 30-inch-diameter pipeline and associated appurtenant aboveground facilities in seven separate looping [1] segments in Potter, Tioga, Bradford, Susquehanna, Wayne, and Pike Counties, Pennsylvania; and Sussex and Passaic Counties, New Jersey;
- construction of new compressor stations in Venango and McKean Counties, Pennsylvania;
- modifications to seven existing compressor stations in Potter, Tioga, Bradford, Susquehanna, and Pike Counties, Pennsylvania, and Sussex County, New Jersey, and to an existing meter station in Bergen County, New Jersey; and
- installation of associated appurtenant aboveground facilities including mainline valves and pig [2] launchers and receivers.

Eastern Alternative Loop

This supplemental NOI concerns only TGP's planned Loop 325 in Sussex and Passaic Counties, New Jersey. Planned Loop 325 would begin at milepost (MP) 0.0 in Sussex County, and terminate at MP 17.3 in Passaic County. As planned, Loop 325 would cross the WRNWR from approximate MPs 1.0 to 1.8.

The Eastern Alternative Loop would begin approximately 2.0 miles to the east of MP 0.0 and end approximately 2.2 miles to the east of MP 17.3. Thus, the alternative would avoid impacts from MPs 0.0 to 2.0 of Loop 325, including the WRNWR, but would impact areas that would not be affected by TGP's Loop 325 configuration. The route would remain as initially planned for the approximately 15.3-mile-long segment between the eastern and western portions of the loop whether the Commission would approve either the planned Loop 325 or the Eastern Alternative Loop.

Maps depicting Loop 325 and Eastern Alternative Loop are included in appendix 1.[3]

Land Requirements

We have requested that TGP provide additional information regarding the Eastern Alternative Loop. However, because the length of Loop 325 is similar for TGP's planned configuration and the Eastern Alternative Loop, land requirements for either configuration are expected to be similar. In general, Loop 325 would be located within and directly adjacent to the existing 300 Line right-of-way and at a typical offset of 25 feet from the existing pipeline to the extent practicable. The area temporarily disturbed during construction but not required for operation would generally be allowed to revert to pre-construction condition and uses. The area required for operation of Loop 325 would vary depending on the width of TGP's existing right-of-way, but would generally be maintained in an herbaceous state. Permanent structures such as buildings would not be allowed within the new, permanent right-of-way.

[1] A loop is a segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[2] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

[3] The appendices referenced in this notice are not being printed in the **Federal Register** but were sent to all those receiving this notice in the mail. Copies of all appendices are available at *http://www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this supplemental NOI, the Commission requests public comments on the scope of the issues to address in the EA regarding the Eastern Alternative Loop. All comments received will be considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA, we will compare impacts that could occur as a result of the construction and operation of Loop 325 under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species; and
- public safety.

We will also evaluate possible alternatives to the planned project or portions of the project, including the Eastern Alternative Loop. Our analysis will also include recommendations on how to lessen or avoid impacts on the various resource areas. Although no formal application has been filed, we have already initiated our NEPA review under the Commission's Pre-filing Process. The purpose of the Pre-Filing Process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our Pre-filing Process review, we have contacted Federal and State agencies to discuss their involvement in the scoping process and the preparation of the EA. The FERC is the lead Federal agency in the preparation of the EA, and the U.S. Army Corps of Engineers and the U.S. Bureau of Land Management have agreed to participate as cooperating agencies in the preparation of the EA to satisfy their respective NEPA responsibilities. Representatives from the FERC also participated in public open houses sponsored by TGP in the project area in December 2008 and January 2009, to explain the environmental review process to interested stakeholders. The initial NOI for this project was issued by the FERC on February 4, 2009. In addition, we conducted three public scoping meetings in the project area to hear public concerns and comments on the planned project. One of these scoping meetings was held near Loop 325 in Vernon, New Jersey, on February 24, 2009.

Our independent analysis of the issues will be presented in the EA. The EA will be published and mailed to the entities on our mailing list (see discussion on how to remain on our list under Environmental Mailing List below). A 30-day comment period will be allotted for review of the EA. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of Loop 325 and the Eastern Alternative Loop. This preliminary list of issues may be changed based on your comments and our analysis:

- Impacts on the WRNWR, which would be crossed by the planned Loop 325 but avoided by the Eastern Alternative Loop;
- impacts on lands under jurisdiction of the New Jersey Highlands Act;
- potential impacts on nearby residences;
- aesthetic impacts, including the loss of trees in forested areas; and
- potential impacts on threatened or endangered species including the Indiana bat and the bog turtle.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Eastern Alternative Loop. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before July 17, 2009.

For your convenience, there are three methods you can use to submit your written comments to the Commission. In all instances, please reference the project docket number PF09–1–000 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* A *Quick Comment* is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''*Sign up*'' or ''*eRegister.*'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

In all instances, please reference the project docket number PF09–1–000 with your submission. Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the first 2.0 miles of the planned Loop 325 and the last 2.2 miles of the Eastern Alternative Loop. This includes all landowners who are potential right-of-way grantors or whose property may be used temporarily for project purposes.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

[4] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

Becoming an Intervenor

Once TGP formally files its application with the Commission, you may want to become an ''intervenor,'' which is an official party to the proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''eFiling'' link on the Commission's Web site. Please note that you may not request intervenor status at this time; you must wait until the formal application is filed with the Commission.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202)502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, to request additional information on the project or to provide comments directly to the project sponsor, you can contact TGP directly by calling toll free at 1–866–683–5587. Also, TGP has established a Web site at *http://www.elpaso.com/tgp300lineproject/*. The Web site includes a description of the project, an overview map of the planned facilities, and links to related documents. TGP will update the Web site as the environmental review of its project proceeds.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14785 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1278–000]

AES Mountain Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2009.

This is a supplemental notice in the above-referenced proceeding of AES Mountain Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14794 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM06–22–006; Order No. 706–C]

Mandatory Reliability Standards for Critical Infrastructure Protection

Issued June 18, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying request for clarification.

SUMMARY: On March 19, 2009, the Commission issued Order No. 706–B which clarified the scope of Critical Infrastructure Protection Reliability Standards which were approved in Commission Order No. 706. The Commission is denying a request for clarification of Order No. 706–B filed by the Edison Electric Institute.

DATES: *Effective Date:* This rule will become effective June 24, 2009.

FOR FURTHER INFORMATION CONTACT:

Jonathan First (Legal Information), Office of General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 502–8529.

Regis Binder (Technical Information), Office of Electric Reliability, 888 First Street, NE., Washington, DC 20426, (301) 665–1601.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Chairman; Suedeen G. Kelly, Marc Spitzer, and Philip D. Moeller.

Order Denying Request for Clarification

Issued June 18, 2009.

1. In this order, the Commission denies the Edison Electric Institute's

(EEI's) request for clarification of Order No. 706–B.[1] Specifically, the Commission denies EEI's request that the Commission clarify its views with regard to the need and the time frame for the Commission's developing a memorandum of understanding or other means of coordinating cyber-security related activities with the U.S. Nuclear Regulatory Commission (NRC). Likewise, the Commission denies EEI's request that the Commission clarify that the North American Electric Reliability Corporation (NERC) must seek stakeholder input in developing and implementing an ''exception process'' as discussed in Order No. 706–B.

I. Background

2. In Order No. 706, the Commission approved the Critical Infrastructure Protection (CIP) Reliability Standards that require certain users, owners and operators of the Bulk-Power System, including generator owners and operators, to comply with specific requirements to safeguard critical cyber assets. In addition, pursuant to section 215(d)(5) of the Federal Power Act (FPA),[2] the Commission directed the ERO to develop modifications to the CIP Reliability Standards to address specific concerns identified by the Commission.

3. In Order No. 706–B, the Commission clarified the scope of the CIP Reliability Standards approved in Order No. 706 to assure that no ''gap'' occurs in the applicability of these Standards. In particular, each of the CIP Reliability Standards provides that facilities regulated by the NRC are exempt from the Standard. The Commission explained that NRC staff had raised a concern at a joint public meeting of the NRC and the Commission that NRC regulations do not extend to all equipment within a nuclear power plant. Thus, to assure that there is no ''gap'' in the regulatory process, the Commission clarified that the ''balance of plant'' equipment within a nuclear power plant in the United States that is not subject to NRC cyber security regulations,[3] is subject to compliance with the CIP Reliability Standards approved in Order No. 706. The Commission explained that:

> a nuclear power plant licensee may seek an exception from the ERO to the extent that the licensee believes that specific equipment within the balance of plant is subject to NRC cyber security regulations. If the ERO grants the exception, that equipment within the balance of plant would not be subject to compliance with the CIP Reliability Standards. We would expect that the ERO would make such determinations with the consultation of NRC and oversight of Commission staff. Thus, to further the development of this ERO process, the ERO should consider the appropriateness of developing a memorandum of understanding with the NRC, or revising existing agreements, to address such matters as NRC staff consultation in the exception application process and sharing of Safeguard[s] Information.[4]

4. In response to comments suggesting that the NRC and the Commission develop a memorandum of understanding, the Commission agreed that it is advisable for the two commissions to coordinate their respective cyber security-related activities with regard to nuclear power plants.[5] However, the Commission declined to resolve for purposes of the proceeding the need for a new memorandum of understanding between the two commissions.

II. EEI Request for Clarification

5. EEI requests that the Commission clarify its views with respect to the need and the time frame for the Commission's developing a memorandum of understanding or other means of coordinating cyber security-related activities with the NRC. EEI suggests that, given the volume of work on cyber security matters and recent regulatory changes such as the NRC's issuance of its cyber security regulations, it is vital that the Commission and the NRC commit to develop a memorandum of understanding on an expeditious schedule. EEI expresses concern that the Commission's deferral of a decision on the need for a memorandum of understanding may lead to confusion and regulatory uncertainty.

6. EEI also requests that the Commission clarify that NERC should seek stakeholder input in developing and implementing both the ''exception process'' and any process for sharing Safeguards Information. EEI posits that stakeholder input and industry technical expertise will be critical to implementing both processes.

III. Discussion

7. The Commission denies EEI's request for clarification. The Commission and the NRC entered into a memorandum of agreement in September 2004.[6] The Commission views the decision of whether to develop a new or revised memorandum of agreement with the NRC, and the timing of that decision, as an intra-governmental matter between the two commissions. Accordingly, the Commission will not make commitments to EEI or others in this proceeding regarding the scope or timing of any coordinated activities between the Commission and the NRC.

8. As for EEI's request that the Commission clarify that NERC should seek stakeholder input in developing and implementing an exception process and process for sharing Safeguard Information, we note that NERC sought stakeholder input in a ''Town Hall Meeting'' on ''Auditing of U.S. Nuclear Plants for CIP Standards Compliance'' held on June 11, 2009. We expect that NERC will allow for further stakeholder input regarding these processes. Thus, we see no need to address EEI's request.

The Commission orders:

Edison Electric Institute's request for clarification is hereby denied, as discussed in the body of this order.

By the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14795 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

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[1] *Mandatory Reliability Standards for Critical Infrastructure Protection,* Order No. 706, 122 FERC ¶ 61,040 (2008) (Order No. 706); *order on reh'g,* Order No. 706–A, 123 FERC ¶ 61,174 (2008) (Order No. 706–A); *order on clarification,* Order No. 706–B, 126 FERC ¶ 61,229 (2009) (Order No. 706–B).

[2] 16 U.S.C. 824o(d)(5)(2006).

[3] U.S. Nuclear Regulatory Commission, *Power Reactor Security Requirements; Final Rule,* 74 FR 13926 (Mar. 27, 2009).

[4] *Id.* P 50. Safeguards information is a special category of sensitive unclassified information to be protected pursuant to Section 147 of the Atomic Energy Act, 42 U.S.C. 2167 (2006). Safeguards information concerns the physical protection of operating power reactors, spent fuel shipments, strategic special nuclear material, or other radioactive material. *See* 10 CFR 73.21 (2009) (setting forth requirements for the protection of safeguards information, including access to such information).

[5] *Id.* P 55.

[6] The memorandum of agreement is available on the Commission's Web site, at *http://www.ferc.gov/legal/maj-ord-reg/mou.asp.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1286–000]

Elizabethtown Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2009.

This is a supplemental notice in the above-referenced proceeding of Elizabethtown Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket

authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14789 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1283–000]

The Energy Cooperative of Pennsylvania, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2009.

This is a supplemental notice in the above-referenced proceeding of The Energy Cooperative of Pennsylvania, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is July 16, 2009.

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Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14786 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1285–000]

Streator-Cayuga Ridge Wind Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2009.

This is a supplemental notice in the above-referenced proceeding of Streator-Cayuga Ridge Wind Power LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the

Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14788 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1287–000]

Lumberton Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2009.

This is a supplemental notice in the above-referenced proceeding of Lumberton Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14790 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1284–000]

Rugby Wind LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2009.

This is a supplemental notice in the above-referenced proceeding of Rugby Wind LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14787 Filed 6–23–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0362; FRL–8421–8]

2-(Decylthio)ethanamine Hydrochloride; and Silver and Compounds Registration Review; Antimicrobial Pesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for

these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open a registration review docket for 2,4-Imidazolidinedione, 3-bromo-1 chloro-5,5-dimethyl-, case 5005. This pesticide has only one registration that was inadvertently placed in case 5005. The active ingredient belongs in case 3055. Therefore, the active ingredient in case 5005 will be included in the registration review of case 3055, scheduled for 2013.

DATES: Comments must be received on or before September 22, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact*: The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Diane Isbell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8481; fax number: (703) 308–8090; e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE 1. —REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Docket ID Number	Chemical Review Manager, Telephone Number, E-mail Address
2-(Decylthio)ethanamine Hydrochloride (DTEA-HCl) Case 5029	EPA–HQ–OPP–2009–0336	K. Avivah Jakob, (703) 305–1328, jakob.kathryn@epa.gov
Silver and Compounds Case 4082	EPA–HQ–OPP–2009–0334	Heather Garvie, (703) 308–0034, garvie.heather@epa.gov

EPA is also announcing the Agency's intent not to open a registration review docket for 2,4-Imidazolidinedione, 3-bromo-1 chloro-5,5-dimethyl-, case 5005. This pesticide has only one registration that was inadvertently placed in case 5005. The active ingredient belongs in case 3055. Therefore, the active ingredient in case 5005 will be included in the registration review of case 3055, scheduled for 2013.

B. Docket Content

1. *Review dockets*. The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.* Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters

must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

• As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Antimicrobials; Pesticides and pests, 2-(Decylthio)ethanamine Hydrochloride; Silver and Compounds.

Dated: June 17, 2009.

Joan Harrigan Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E9–14856 Filed 6–23–09; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0264; FRL–8413–9]

Agency Information Collection Activities; Proposed Collection; Comment Request; Notice of Supplemental Distribution of a Registered Pesticide Product; EPA ICR No. 0278.10, OMB Control No. 2070–0044

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Notice of Supplemental Distribution of a Registered Pesticide Product'' and identified by EPA ICR No. 0278.10 and OMB Control No. 2070–0044, is scheduled to expire on March 31, 2010. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before August 24, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0264, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0264. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Lily G. Negash, Field and External Affairs Division (7506P), of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8515; fax number: (703) 305–5884; e-mail address: *negash.lily@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this ICR are pesticide and other agricultural chemical manufacturing under the North American Industrial Classification System (NAICS) code 325320.

Title: Notice of Supplemental Distribution of a Registered Pesticide Product.

ICR numbers: EPA ICR No. 0278.10, OMB Control No. 2070–0044.

ICR status: This ICR is currently scheduled to expire on March 31, 2010. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This information collection activity provides EPA with notification of supplemental registration of distributors of pesticide products. EPA is responsible for the regulation of pesticides as mandated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. Section 3(e) of FIFRA (see 7 U.S.C. 136a(e)), allows pesticide registrants to distribute or sell a registered pesticide product under a different name instead of or in addition to his own. Such distribution and sale is termed ''supplemental distribution'' and the product is termed a ''distributor product.'' EPA requires the pesticide registrant to submit a supplemental statement (EPA Form 8570–5, Notice of Supplemental Distribution of a Registered Pesticide Product) when the registrant has entered into an agreement with a second company that will distribute the registrant's product under the second company's name and product name.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.24 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1,900.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 456 hours.

Estimated total annual costs: $37,050.

IV. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 139 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease is an adjustment reflecting EPA's expectation that only 1,900 Notices of Registration of Supplemental Distribution will be submitted to the Agency annually over the next three years.

V. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 16, 2009.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E9–14718 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2008–0913, FRL–8923–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; General Hazardous Waste Facility Standards (Renewal); EPA ICR Number 1571.09, OMB Control Number 2050–0120

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 24, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2008–0913, to (1) EPA, either online using *http://www.regulations.gov* (our preferred method), or by e-mail to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB, by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Norma Abdul-Malik (Mail Code 5303P), Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8753; fax number: 703–308–8617; e-mail address: *abdul-malik.norma@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 5, 2009 (74 FR 6152), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2008–0913, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: General Hazardous Waste Facility Standards (Renewal).

ICR numbers: EPA ICR No. 1571.09, OMB Control No. 2050–0120.

ICR Status: This ICR is scheduled to expire on June 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 3004 of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the U.S. Environmental Protection Agency (EPA) develop standards for hazardous waste treatment, storage, and disposal facilities (TSDFs) as may be necessary to protect human health and the environment. Subsections 3004(a)(1), (3), (4), (5), and (6) specify that these standards include, but not be limited to, the following requirements:

- Maintaining records of all hazardous wastes identified or listed under subtitle C that are treated, stored, or disposed of, and the manner in which such wastes were treated, stored, or disposed of;
- Operating methods, techniques, and practices for treatment, storage, or disposal of hazardous waste;
- Location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;
- Contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste; and
- Maintaining or operating such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable.

The regulations implementing these requirements are codified in 40 CFR parts 264 and 265. The collection of this information enables EPA to properly determine whether owners/operators or hazardous waste treatment, storage, and disposal facilities meet the requirements of section 3004(a) of RCRA.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 324 hours per respondent, and the annual public recordkeeping burden for this collection of information is estimated to average 88 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are business and other for-profit, as well as State, Local, and Tribal governments.

Estimated Number of Respondents: 1,403.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 578,381.

Estimated Total Annual Cost: $38,057,653 including $37,384,641 annualized labor costs and $673,012 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 73,931 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This reduction is due to an estimated decrease in the respondent universe of 128.

Dated: June 18, 2009.

John Moses,

Director, Collection Strategies Division.

[FR Doc. E9–14853 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8922–8]

EPA Launches NetDMR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Clean Water Act Discharge Monitoring Reports (DMRs) represent the highest volume of information collection undertaken by the Environmental Protection Agency (EPA). EPA Regions and select States, Tribes, and Territories will have a new tool available to assist their regulated National Pollutant Discharge Elimination System (NPDES) facilities in reporting DMRs beginning June 22, 2009. Additional States, Tribes, and Territories may adopt Network Discharge Monitoring Report (NetDMR) and enable their regulated NPDES facilities to begin utilizing the electronic reporting tool. NetDMR provides an

Internet-based reporting tool for NPDES facilities to electronically sign and submit DMRs. NetDMR allows participants to discontinue mailing in hard copy forms under 40 CFR 122.41 and 403.12.

DATES: The NetDMR application is available beginning June 22, 2009.

FOR FURTHER INFORMATION CONTACT: Allison Donohue, U.S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Mail Stop 2222A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2195, *donohue.allison@epa.gov.*

SUPPLEMENTARY INFORMATION:

What Action Is EPA Taking?

A. Background

NetDMR will, for the first time, provide a national tool for regulated Clean Water Act permittees to submit and sign Discharge Monitoring Reports (DMRs) electronically via a secure Internet application to U.S EPA through the Environmental Information Exchange Network. The transition from paper to electronic reporting significantly reduces the burden on States, Tribes, Territories, and the regulated community. NetDMR is consistent with the standards in the Cross-Media Electronic Reporting Regulation (CROMERR) § 3.2000, including the § 3.2000(b)(5) standards for electronic signatures and identify-proofing for ''priority reports.'' An essential component of NetDMR is the exchange of data with EPA's Integrated Compliance Information System, which allows permittees to complete a DMR that is specific to their permit limits and outfalls.

B. Today's Action

On June 22, 2009, EPA Region 1 (New Hampshire and Massachusetts), EPA Region 3 (District of Columbia), EPA Region 6 (Gulf of Mexico), Utah and Louisiana will begin utilizing NetDMR.

C. How Can I Get Other Related Information?

Additional information on NetDMR can also be found at *http://www.epa.gov/netdmr.*

Lisa Lund,

Director, Office of Compliance.

[FR Doc. E9–14868 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8922–5]

National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment

AGENCY: Environmental protection agency.

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will meet on the dates and times described below. All meetings are open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about registering for public comment, please see **SUPPLEMENTAL INFORMATION**. Due to limited space, seating at the NEJAC meeting will be on a first-come basis.

DATES: The NEJAC meeting will convene Tuesday, July 21, 2009 from 9 a.m. to 5 p.m., and reconvene Wednesday, July 22, 2009, from 8:30 a.m. to 5 p.m., and Thursday, July 23, 2009, from 8:45 a.m. to 2 p.m. One public comment session relevant to the specific issues being considered by the NEJAC (see **SUPPLEMENTARY INFORMATION**) is scheduled for Tuesday evening, July 21, from 6:30 p.m. to 9:30 p.m. All noted times are Eastern Time. Members of the public who wish to participate in the public comment period are encouraged to pre-register by July 13, 2009.

ADDRESSES: The NEJAC meeting will be held at the Crowne Plaza Washington National Hotel, 1480 Crystal Drive, Arlington, VA 22202, telephone (703) 416–1600 or toll-Free: (800) 2CROWNE, and facsimile (703) 416–1651.

FOR FURTHER INFORMATION CONTACT: Questions concerning the meeting should be directed to Ms. Lisa Hammond, U.S. Environmental Protection Agency, at 1200 Pennsylvania Avenue, NW., (MC2201A), Washington, DC 20460; by telephone at (202) 564–0736, via e-mail at *hammond.lisa@epa.gov;* or by FAX at (202) 564–1624. Additional information about the meeting is available on the following Web site: *http://www.epa.gov/compliance/environmentaljustice/nejac/meetings.html.*

Pre-registration for all attendees is recommended. To register online, visit the Web site above. Requests for pre-registration forms should be sent to Ms. Stacy Stockton, EPA Contractor, APEX Direct, Inc., at (770) 997–7998 or *meetings@AlwaysPursuingExcellence.com.* Non-English speaking attendees wishing to arrange for a foreign language interpreter also may make appropriate arrangements using these numbers.

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, ''advice about broad, cross-cutting issues related to environmental justice, including environment-related strategic, scientific, technological, regulatory and economic issues related to environmental justice.''

The meeting shall be used to receive comments, discuss, and provide recommendations regarding these primary areas: (1) EPA's Priorities for Addressing Environmental Justice; (2) Impacts of NEJAC Recommendations on EPA Policies and Activities; (3) Enhancing Community Engagement with the NEJAC; (4) Strategies to Identify and Address Disproportionate Burdens on Certain Communities Caused by Air Pollution Resulting from Goods Movement Activities; and (5) School Air Toxics Monitoring in Disproportionately Burdened Communities.

A. Public Comment: Individuals or groups making oral presentations during the public comment period will be limited to a total time of five minutes. Only one representative of a community, organization or group will be allowed to speak. Any number of written comments can be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of Speaker, Name of Organization/Community, Address/Telephone/E-mail, Description of Concern and its Relationship to a Specific Policy Issue(s), and Recommendations or desired outcome. Written comments received by July 13, 2009 will be included in the materials distributed to the members of the NEJAC. Written comments received after that date will be discussed by the NEJAC as time permits. All information should be sent to the address, e-mail, or fax number listed in the CONTACT section above.

B. Information About Services for Individuals With Disabilities: For information about access or services for individuals with disabilities, please contact Ms. Stacy Stockton, EPA Contractor, APEX Direct, Inc., at (770) 997–7998 or *meetings@AlwaysPursuing*

Excellence.com. To request special accommodations for a disability, please contact Ms. Stockton, at least 10 days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, e-mail, or fax number listed above.

Dated: June 16, 2009.

Victoria Robinson,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. E9–14865 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8922–4]

Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board Integrated Nitrogen Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Integrated Nitrogen Committee (INC) to discuss the committee's draft report.

DATES: The SAB INC will conduct two public teleconferences on July 8, 2009 and July 9, 2009. Both teleconferences will begin at 12 p.m. and end at 3 p.m. (Eastern Time).

ADDRESSES: The teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning the two public teleconferences may contact Dr. Angela Nugent, Designated Federal Officer (DFO), via telephone at (202) 343–9981 or e-mail at *nugent.angela@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the EPA Web site at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463 5 U.S.C., App. 2 (FACA), notice is hereby given that the SAB INC will hold two public teleconferences to discuss its draft report. The SAB was established pursuant to 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The SAB INC is studying the need for integrated research and management strategies to reduce reactive nitrogen in the environment. At the global scale, reactive nitrogen from human activities now exceeds that produced by natural terrestrial ecosystems. Reactive nitrogen both benefits and impacts the health and welfare of people and ecosystems. Scientific information suggests that reactive nitrogen is accumulating in the environment and that nitrogen cycling through biogeochemical pathways has a variety of consequences. Information about the committee's previous meetings is available on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Nitrogen%20Project*.

The purpose of the teleconferences is for the SAB INC to discuss the committee's draft report addressing the environmental problems presented by reactive nitrogen and providing recommendations related to an integrated nitrogen management strategy.

Availability of Meeting Materials: Agendas and materials in support of the teleconferences will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of each teleconference.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB INC to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of one hour for all speakers. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact the DFO, in writing (preferably via e-mail) at the contact information noted above, by July 6, 2009 to be placed on the list of public speakers for the meeting.

Written Statements: Written statements should be received in the SAB Staff Office by July 6, 2009 so that the information may be made available to the Committee members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are requested to provide versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 343–9981 or *nugent.angela@epa.gov*. To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconferences to give EPA as much time as possible to process your request.

Dated: June 17, 2009.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. E9–14858 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0342; FRL–8422–4]

Registration Review; Pesticide Dockets Opened for Review and Comment; Closure of the Terpineols Registration Review Case

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open a registration review docket for terpineols. This pesticide does not currently have any actively registered

pesticide products and is not, therefore, scheduled for review under the registration review program.

DATES: Comments must be received on or before August 24, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

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

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

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

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact*: The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Docket ID Number	Chemical Review Manager, Telephone Number, E-mail Address
Boric Acid and Sodium Borate Salts 0024	EPA–HQ–OPP–2009–0306	Russell Wasem, (703) 305–6979, *wasem.russell@epa.gov*
Butylate 0071	EPA–HQ–OPP–2008–0882	Jacqueline Guerry, (703) 305–0024, *guerry.jacqueline@epa.gov*
Daminozide 0032	EPA–HQ–OPP–2009–0242	Andrea Carone, (703) 308–0122, *carone.andrea@epa.gov*
DDVP 0310	EPA–HQ–OPP–2009–0209	Joy Schnackenbeck, (703) 308–8072, *schnackenbeck.joy@epa.gov*
Fosthiazate 7604	EPA–HQ–OPP–2009–0267	James Parker, (703) 306–0469, *parker.james@epa.gov*
Glyphosate 0178	EPA–HQ–OPP–2007–0147	John Pates, (703) 308–8195, *pates.john@epa.gov*
Malathion 0248	EPA–HQ–OPP–2009–0317	Eric Miederhoff, (703) 347–8028, *miederhoff.eric@epa.gov*
Methyl Parathion 0153	EPA–HQ–OPP–2009–0332	Kelly Ballard, (703) 305–8126, *ballard.kelly@epa.gov*
Phosmet 0242	EPA–HQ–OPP–2009–0316	Katie Weyrauch, (703) 308–0166, *weyrauch.katie@epa.gov*
Phostebupirim 7606	EPA–HQ–OPP–2008–0940	Wilhelmena Livingston, (703) 308–8025, *livingston.wilhelmena@epa.gov*
Sulfuryl Fluoride 0176	EPA–HQ–OPP–2009–0136	Dana Friedman, (703) 347–8827, *friedman.dana@epa.gov*

The Agency is also announcing that it will not conduct a registration review for terpineols (registration review case 3139). In October 2006, the Agency issued schedules for upcoming registration reviews and included terpineols as one of the pesticides scheduled for registration review. Since first identifying terpineols as a Registration Review pesticide, the Agency has determined that there are no current terpineols Section 3 or Section 24(c) registrations. Therefore, the Agency has determined that terpineols is no longer subject to registration review. A Registration Review docket will not be opened for terpineols and the terpineols registration review case has been closed pursuant to 40 CFR 155.42(c).

B. Docket Content

1. *Review dockets*. The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated

data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

• To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

• As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 16, 2009.

Richard P. Keigwin, Jr.,

Director, Special Review and Registration Division, Office of Pesticide Programs.

[FR Doc. E9–14735 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0477; FRL–8420–8]

Caprylic (Octanoic) Acid Registration Review Final Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decision for the pesticide caprylic (octanoic) acid, case 5028. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide-specific information, contact*: ShaRon Carlisle, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–6427; fax number: (703) 308–8481; e-mail address: *Carlisle.sharon@epa.gov*.

For general information on the antimicrobials registration review program, contact: Diane Isbell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8154; fax number: (703) 308–8481; e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide-specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0477. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decision for caprylic (octanoic) acid, case 5028. Caprylic (octanoic) acid is an antimicrobial pesticide that is used as a food contact surface sanitizer in commercial food handling establishments. It is also used as a disinfectant in health care facilities and as an algaecide in greenhouses and interiorscapes on ornamentals. In addition, caprylic (octanoic) acid is characterized by low toxicity, is biodegradable, and is found extensively in nature.

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered caprylic (octanoic) acid in light of the FIFRA standard for registration. The Caprylic (Octanoic)

Acid Final Decision document in the docket describes the Agency's rationale for issuing a registration review final decision for this pesticide. In addition to the final registration review decision document, the registration review docket for caprylic (octanoic) acid also includes other relevant documents related to the registration review of this case. The proposed registration review decision was posted to the docket and the public was invited to submit any comments or new information. During the 60–day comment period, no public comments were received.

Pursuant to 40 CFR 155.58(c), the registration review case docket for caprylic (octanoic) acid will remain open until all actions required in the final decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. Links to earlier documents related to the registration review of this pesticide are provided at: *http://www.epa.gov/oppsrrd1/registration_review/caprylic-acid/index.htm*.

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Antimicrobials, Caprylic (octanoic) acid, Pesticides and pests, Registration review.

Dated: June 11, 2009.

Joan Harrigan-Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E9–14779 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0335; FRL–8418–3]

Registration Review; Boll Weevil Attractants Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a registration review docket for Boll Weevil Attractants which is listed in the table in Unit III.A. With this document, EPA is opening the public comment period for this registration review. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment

DATES: Comments must be received on or before August 24, 2009, August 24, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the pesticide provided in the table in Unit III.A., by one of the following methods:

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

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

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

Instructions: Direct your comments to the docket ID number listed in the table in Unit III.A. for the pesticide you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact*: John Fournier, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0169; fax number: (703) 305–0118; e-mail address: *fournier.john@epa.gov*.

For general information contact: Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a

wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. Authority

EPA is initiating its review of the pesticide identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration identified in the table in this unit to assure that it continues to satisfy the FIFRA standard for registration—that is, it can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening a registration review docket for the case identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Docket ID Number	RAL, Telephone Number, E-mail Address
Boll Weevil Attractants Case 6044	EPA–HQ–OPP–2009–0335	John Fournier, (703-308-0169), fournier.john@epa.gov

B. Docket Content

1. *Review docket*. The registration review docket contains information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

The docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of this pesticide. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on this case, including the active ingredients for this case, may be located in the registration review schedule on the Agency's website at

http://www.epa.gov/oppsrrd1/registration_review/schedule.htm. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

• To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

• As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests, Boll Weevil Attractants.

Dated: June 4, 2009.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–14595 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8920–3]

Request for Nominations to the Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Request for Nominations.

SUMMARY: The U.S. Environmental Protection Agency invites nominations to fill vacancies on its Children's Health Protection Advisory Committee (CHPAC). The Agency seeks qualified senior-level decision makers from diverse sectors throughout the United States to be considered for appointments. EPA encourages interested applicants to send their resumes and qualifications as soon as possible by July 24, 2009. Additional avenues and resources may be utilized in the solicitation of nominees.

ADDRESSES: Submit nominations via e-mail or fax to Martha Berger, Designated Federal Officer, *berger.martha@epa.gov,* 202–564–2733 (fax), Office of Children's Health Protection, U.S. Environmental Protection Agency (1107A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Background: The CHPAC is a Federal advisory committee under the Federal Advisory Committee Act, Public Law 92463. The U.S. Environmental Protection Agency established the CHPAC in 1998 to provide independent advice to the EPA Administrator on regulations, research, and communications issues relevant to children's environmental health. CHPAC consists of representatives from industry, private foundations, pediatricians, nurses, scientists, environmental organizations, citizen organizations/networks, Federal government, environmental justice community, state/local/tribal governments, outreach groups, user/processors (*i.e.,* foods), and economists.

Members are appointed by the Administrator of EPA for two year terms with the possibility of reappointment for up to 6 years. The Committee usually meets 3–4 times annually (with additional teleconference meetings as needed) and the average workload for the members is approximately 10 to 15 hours per month. Members serve on the Committee in a voluntary capacity; however, EPA provides reimbursement for travel expenses associated with official government business.

Potential candidates should possess the following qualifications: Occupy a senior position within their organization; Broad experience outside of their current position; Experience dealing with public policy issues affecting children; Membership in broad-based networks; Recognized expert in matters affecting children's health to be addressed by the CHPAC.

EPA is seeking nominees for diverse representation from all sectors, in particular federal, state, local and tribal agencies, academia, healthcare, public health, industry, environmental justice, and non-governmental organizations.

Nominations for membership must include a resume and short (one or two pages) biography describing the educational and professional qualifications of the nominee, the interest of the nominee in children's environmental health issues, and the nominee's current business address, e-mail address, and daytime telephone number.

FOR FURTHER INFORMATION CONTACT: Martha Berger, Office of Children's Health Protection, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2191, *berger.martha@epa.gov.*

Martha Shimkin,

Director, Child and Aging Health Protection Division.

[FR Doc. E9–14861 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2004–0348; FRL–8424–1]

Malathion; Revised Reregistration Eligibility Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's decision to modify certain risk mitigation measures that were specified in the 2006 Reregistration Eligibility Decision (RED) for the pesticide malathion. EPA conducted this reassessment of the malathion RED in response to public comments received during the comment period and to new data submitted by the technical registrant, Cheminova, Inc. Based on the new information received, and in a continuing effort to mitigate risk, the Agency has made certain modifications to the malathion RED.

FOR FURTHER INFORMATION CONTACT: Eric Miederhoff, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8028; fax number: (703) 308–7070; e-mail address: *miederhoff.eric@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2004–0348. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) directs EPA to reevaluate existing pesticides to ensure that they meet current scientific and regulatory standards. In 2006, EPA issued a RED for malathion under section 4(g)(2)(A) of FIFRA. In response to a notice of availability published in the **Federal Register** of November 29, 2006 (71 FR 69114) (FRL–8104–2), the Agency received substantive public comments and new data from the technical registrant. The Agency's response to comments is available for viewing in the public docket. The revised malathion RED reflects changes resulting from Agency consideration of these comments and the new data received on provisions of the RED, as well as efforts by the Agency to appropriately mitigate overall risk. The revised RED for malathion concludes EPA's reregistration eligibility decision-making process for this pesticide.

In response to a Data Call-In issued in October 2004, the Agency received a special acute and repeat dose comparative cholinesterase (ChE) assay with malaoxon (the active ChE inhibiting metabolite of malathion) and malathion in March 2008. The study and post-RED comments have enabled the Agency to refine several toxicological assumptions for malathion. If these refined values were to be incorporated into the human health risk assessments for malathion, the estimate of risk from exposure to malathion would likely be reduced. Although the human health risk assessments have not been revised to include the new toxicity assumptions, the refinements from those used in the RED, which were sufficient to demonstrate a level of risk below the Agency's level of concern, confirm that conclusions in the human health risk assessments were adequately conservative to protect human health.

The revised malathion RED includes a revised label table that modifies label language for consumer products, ultra low volume applications, and the use patterns for a number of specific crops. Additional revisions include: Updates on the status of two endangered species assessments that include malathion; clarification of how the Boll Weevil Eradication Program was considered in the Agency's residential risk assessments; descriptions of recent studies examining isomalathion (an impurity present in malathion). A comparison of reassessed U.S. tolerances (listed in 40 CFR 180.111) relative to Canada, Mexico, and Codex maximum residue limits has also been added. Additionally, the Agency has revised the confirmatory data requirements for malathion, removing the requirement for an aerobic aquatic metabolism study with malathion and a comparative Che study with malathion and malaoxon.

After considering public comments submitted after the 2006 RED was issued, for a limited number of crops, the Agency has increased the allowed number of applications per crop cycle from what was proposed for these crops in the 2006 RED. In the 3 years since the RED was issued, several comments raised substantive concerns about whether the proposed use patterns would allow efficacious control of target pests. The Agency investigated these claims and found that in some cases, an adjustment to the allowed number of applications was justified. Although the Agency routinely evaluates the needs of pesticide users during the development of its REDs, new concerns arise during public comment periods, particularly for pesticides available for as wide a variety of applications as malathion. Recent endangered species assessments conducted both by the Agency and the National Marine and Fisheries Service which include malathion, are based on the highest use rates that appear on current, EPA-approved product labels. These labels have not yet been revised to implement use rate reductions specified by the malathion RED. The increases to the allowed number of applications of malathion to certain crops introduced in the revised RED remain, without exception, reduced from those rates which were utilized in recent endangered species assessments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA, as amended, directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Malathion, Pesticides and pests.

Dated: June 18, 2009.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E9–14864 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0390; FRL–8422–1]

Notice of Suspension of Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act

(FIFRA), announces that certain Notices of Intent to Suspend issued by EPA pursuant to section 3(c)(2)(B) of FIFRA have become final and effective suspension orders. The Notices of Intent to Suspend were issued following the Agency's issuance of a Data Call-In notice (DCI), which required the registrant, Bonide Products Inc., of the affected pesticide products containing the pesticide active ingredients carbaryl and sodium acifluorfen to take appropriate steps to secure certain data, and following the registrant's failure to submit these data or to take other appropriate steps to secure the required data. The subject data were determined to be required to maintain in effect the existing registrations of the affected products. Failure to comply with the data requirements of a DCI is a basis for suspension of the affected registrations under section 3(c)(2)(B) of FIFRA.

DATES: Each Notice of Intent to Suspend included in this **Federal Register** notice became a final and effective suspension order automatically by operation of law 30 days after the date of the registrant's receipt of the mailed Notice of Intent to Suspend.

FOR FURTHER INFORMATION CONTACT: Terria Northern, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7093; e-mail address: *northern.terria@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0390. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Registrant Issued Notices of Intent to Suspend, Active Ingredients, Products Affected, and Date Issued

Each Notice of Intent to Suspend was sent via the U.S. Postal Service (USPS) return receipt requested to the registrant for the products listed in Table 1 of this unit.

TABLE 1. —LIST OF PRODUCTS

Registrant Affected	Active Ingredient	EPA Registration Number	Product Name	Date EPA Issued Notice of Intent to Suspend	Date Registrant Received Notice of Intent to Suspend
Bonide Products, Inc.	Carbaryl	4–142	Grubtox Lawn and Insect Control	February 5, 2009	February 9, 2009
Bonide Products, Inc.	Carbaryl	4–143	Bonide Sevin 5% Dust Insecticide	February 5, 2009	February 9, 2009
Bonide Products, Inc.	Carbaryl	4–333	Bonide Slug, Snail and Sowbug Bait	February 5, 2009	February 9, 2009
Bonide Products, Inc.	Carbaryl	4–413	Bonide Sevin Garden Dust	February 5, 2009	February 9, 2009
Bonide Products, Inc.	Sodium acifluorfen	4–433	KleenUp Grass & Weed Killer Ready to Use	April 7, 2009	April 13, 2009

III. Basis for Issuance of Notice of Intent to Suspend; Requirement List

Bonide Products, Inc. received the carbaryl Notice of Intent to Suspend on February 9, 2009, and the sodium acrifluorfen Notice of Intent to Suspend on April 13, 2009, as evidenced by the USPS return receipt cards. No requests for hearings were received concerning either Notice of Intent to Suspend within the time frame specified by FIFRA and in each of the issued Notice of Intent to Suspend. Bonide Products, Inc. failed to submit the required data or information or to take other appropriate steps to secure the required data for their pesticide product as listed in Table 2 of this unit.

TABLE 2.—LIST OF REQUIREMENTS

EPA Registration Number	OPPTS Harmonized Guideline # as Listed in Applicable DCI	Requirement Name	Date EPA Issued DCI	Date Registrant Received DCI	Final Data Due Date	Reason for Notice of Intent to Suspend
4-142	830.6317 830.6320	Storage Stability Corrosion Characteristics	March 10, 2005	April 1, 2005	April 16, 2008	No data received
4-143	830.6317 830.6320	Storage Stability Corrosion Characteristics	March 10, 2005	April 1, 2005	April 16, 2008	No data received
4-333	830.6317 830.6320	Storage Stability Corrosion Characteristics	March 10, 2005	April 1, 2005	April 16, 2008	No data received
4-413	830.6317 830.6320	Storage Stability Corrosion Characteristics	March 10, 2005	April 1, 2005	April 16, 2008	No data received
4-433	830.1800 830.6317 830.6320	Enforcement Analytical Method Storage Stability Corrosion Characteristics	January 25, 2005	January 30, 2005	September 25, 2005	No data received

IV. Status of Products

Effective March 7, 2009 (for EPA registration numbers 4–142, 4–143, 4–333, and 4–413), and May 7, 2009 (for EPA registration number 4–433), the registrant subject to this notice, including all supplemental registrants of products listed in Table 1 of Unit II., may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. Persons other than the registrant subject to this notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. Nothing in this notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. in any manner which would have been unlawful prior to the suspension.

If the registrations for the products listed in Table 1 of Unit II. are currently suspended as a result of failure to comply with another FIFRA section 3(c)(2)(B) Data Call-In notice or section 4 Data Requirements notice, this notice will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

It is the responsibility of the basic registrant to notify all supplementary registered distributors of a basic registered product that this suspension action also applies to their supplementary registered products. The basic registrant may be held liable for violations committed by their distributors.

Any questions about the requirements and procedures set forth in this notice or in the subject FIFRA section 3(c)(2)(B) Data Call-In notice, should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

VI. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is contained in sections 3(c)(2)(B) and 6(f)(2) of FIFRA, 7 U.S.C. 136 ≤*et seq*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 17, 2009.

Richard P. Keigwin,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E9–14854 Filed 6–23–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0143; FRL–8421–4]

Industrial Economics, Incorporated; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Industrial Economics, Incorporated in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Industrial Economics, Incorporated has been awarded multiple contracts to perform work for OPP, and access to this information will enable Industrial Economics, Incorporated to fulfill the obligations of the contract.

DATES: Industrial Economics, Incorporated will be given access to this information on or before June 29, 2009.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number:

(703) 305–0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0143. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under these contract numbers, the contractor will perform the following:

Under Contract Nos. EP07H00213 and EP-W-07-025, Industrial Economics, Incorporated (IEc) will access FIFRA/CBI data in the preparation of financial analyses of the firms that are the subject of EPA enforcement actions taken under FIFRA. In the course of these enforcement actions, IEc may need to review such documents as a violator's tax returns, financial statements, sales data, bank statements, recent load applications, W–2 Forms, etc. The contractor needs this information in order to determine what the violator can afford vis a vis compliance cost, clean-up cost and civil penalties. IEC may also be reviewing this information in regards to determining how much money and economic benefit, the violators obtained by violating the law. For example, if the violations involved the illegal sale of an unregistered pesticide, EPA' s policy is to determine the size of the violator' s economic benefit and make that benefit plus a nontrivial gravity component the minimum civil penalty.

These contracts involve no subcontractors.

The OPP has determined that the contracts described in this document involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contracts with Industrial Economics, Incorporated, prohibits use of the information for any purpose not specified in these contracts; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Industrial Economics, Incorporated is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Industrial Economics, Incorporated until the requirements in this document have been fully satisfied. Records of information provided to Industrial Economics, Incorporated will be maintained by EPA Project Officers for these contracts. All information supplied to Industrial Economics, Incorporated by EPA for use in connection with these contracts will be returned to EPA when Industrial Economics, Incorporated has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: June 9, 2009.

Kathryn Bouvé,

Acting Director, Office of Pesticide Programs.

[FR Doc. E9–14614 Filed 6–23–09; 8:45 a.m.]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Friday, June 26, 2009 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571

OPEN AGENDA ITEMS: Item No. 1: Resolution presented Kamil P. Cook, General Counsel (Acting) upon her resignation.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. 202–565–3957)

John F. Simonson,

Chief Financial Officer.

[FR Doc. E9–14842 Filed 6–23–09; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, June 23, 2009, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Summary reports, status reports, reports of the Office of Inspector General, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Interagency Interim Rule on Capital Maintenance: Residential Mortgage Loans Modified Pursuant to the Making Home Affordable Program of the U.S. Department of Treasury.

Memorandum and resolution re: Notice of Proposed Rulemaking regarding Proposed Interagency Guidance—Funding and Liquidity Risk Management.

Discussion Agenda:

Memorandum and resolution re: Notice of Proposed Rulemaking on the Transaction Account Guarantee Program.

Memorandum and resolution re: Joint Notice of Proposed Rulemaking: Amendment to the Community Reinvestment Act Regulation.

Memorandum and resolution re: Final Rule on Annual Audit and Reporting Requirements (Part 363) and Related Technical Amendment to (Part 308, Subpart U).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7043.

Dated: June 19, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–14955 Filed 6–22–09; 11:15 am]

BILLING CODE P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act; Notice of Meeting

June 17, 2009.

TIME AND DATE: 10 a.m., Wednesday, July 1, 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 consider and act upon the following in open session: *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 meeting 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 INFO: 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. E9–14964 Filed 6–22–09; 11:15 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 9, 2009.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Mark H. Wright, Freeport, Illinois, and Todd M. Wright, Caledonia, Illinois, as individuals, and as a group acting in concert with James H. Wright and Luanne S. Wright, both of Longboat Key, Florida; to acquire voting shares of Freeport Bancshares, Inc., and thereby indirectly acquire voting shares of Midwest Community Bank, both of Freeport, Illinois.

Board of Governors of the Federal Reserve System, June 19, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–14845 Filed 6–23–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 2009.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Austin Bancshares, Inc., Austin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of La Grange Bancshares, Inc., and thereby acquire Colorado Valley Bank, SSB, both of La Grange, Texas.

Board of Governors of the Federal Reserve System, June 19, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–14844 Filed 6–23–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011679–011.

Title: ASF/SERC Agreement.

Parties: American President Lines, Ltd./APL Co. Pte Ltd.; ANL Singapore Pte Ltd.; China Shipping (Group) Company/China Shipping Container Lines, Co. Ltd.; COSCO Container Lines Company, Ltd.; Evergreen Line Joint Service; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Ltd.; Wan Hai Lines Ltd.; and Yang Ming Marine Transport Corp.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment reflects the Indian National Shipowners Association as a participating association in the Asian Shipowners Forum.

Agreement No.: 012069–001.

Title: CSCL/ELJSA Slot Exchange Agreement.

Parties: China Shipping Container Lines Co., Ltd.; China Shipping Container Lines (Hong Kong) Co. Ltd.; and Evergreen Line Joint Service Agreement.

Filing Party: Tara L. Leiter, Esq.; Blank Rome, LLP; Watergate; 600 New Hampshire Avenue NW; Washington, DC 20037.

Synopsis: The amendment allows each party to sub charter space to third parties.

Dated: June 18, 2009.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. E9–14875 Filed 6–23–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Arrow Speed Line, Inc., 9550 Flair Drive, Ste. 532, El Monte, CA 91731. *Officer:* Ting Ting Susanna Kan, President (Qualifying Individual).

Batista Cargo Inc., 4963 Broadway Ave., New York, NY 10034. *Officers:* Santiago Batista, President (Qualifying Individual). Saurys A. Batista, Secretary.

BA Global Inc. dba Shipsafe, 1315 E. Abram Street, Arlington, TX 76010. *Officer:* Abdulla O. Abdulla, President (Qualifying Individual).

MJ Group Limited—Morgan Jones, LLC, 1201 Corbin Street, Elizabeth, NJ 07201. *Officer:* Estrella I. Rodriguez, President (Qualifying Individual).

Commercial Freight and Logistics Pty Ltd., 8 Northumberland Road, Tarren Point, Australia. *Officers:* Stephen P. Scott, Queensland Manager (Qualifying Individual). Bernard Flynn, Director.

Machinery and Parts, Inc. dba Express Line, 6045 NW 87th Ave., Suite 4, Miami, FL 33178. *Officer:* Hector J. Vega, President (Qualifying Individual).

Dafrate LLC, 11 Hunters Path, Skillman, NJ 08558. *Officer:* Polina Trubetskoy, President (Qualifying Individual).

Magic Freight Systems, Inc., 2410 S. Sierra Drive, Suite 202, Compton, CA 90220. *Officer:* Jae H. Juhn, President (Qualifying Individual).

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Inter American Moving Services, Inc., dba Inter American Moving, 3650 NW 74 Street, Miami, FL 33147. *Officer:* Terrence A. Rignault, President (Qualifying Individual).

Global Alliance Corporation Ltd. dba Global Alliance Line, 9550 Flair Drive, Ste. 212, El Monte, CA 91731. *Officer:* Rong Xia (Regina) Wang, Vice President (Qualifying Individual).

Arnold Moving Company, Inc. dba Sterling International, 5200 Interchange Way, Louisville, KY 40229. *Officer:* Richard L. Russell, President (Qualifying Individual).

ALG Global Logistics, Inc., 400 Continental Boulevard, #600, El Segundo, CA 90245. *Officer:* Lorrie Vidal, CEO (Qualifying Individual).

Cargo America, Inc., 332 S. Wayside Drive, Houston, TX 77011. *Officer:* Mohamed F. Elkhodiry, President (Qualifying Individual).

Lion Xpress, Inc., 8345 NW 68 St., Miami, FL 33166. *Officers:* Julio A. Leon, President (Qualifying Individual). Angel O. Leon, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

The Irwin Brown Company, 212 Chartres Street, New Orleans, LA 70130. *Officer:* Sheldon Bernstein, President (Qualifying Individual).

WISEnterprises N.J., LLC, 6 Kings Highway, 2nd Floor, Middletown, NJ 07748. *Officer:* Janet Turner, Member (Qualifying Individual).

RM Shipping & Customs, Inc., 1710 SW 99 Terrance, Miramar, FL 33025. *Officers:* Yissel M. Munoz, President (Qualifying Individual). Albin J. Roman, Vice President.

Jumbo Cargo Inc., 5560 NW 84 Ave., Doral, FL 33166. *Officer:* Emilio Gonzalez, President (Qualifying Individual).

Aro Transport, Inc., 2001 Cornell, Melrose Park, IL 60160. *Officer:* Anna Kosman, President (Qualifying Individual).

PB Direct Corporation, 700 Bishop Street, #2100, Honolulu, HI 96813. *Officers:* Maria Elisa Estrada, Vice President (Qualifying Individual). Emiko K. Singh, President.

G&L Freight Forwarders, LLC, 200 Crofton Rd., Bldg. 14A, Kenner, LA 70063. *Officers:* Gary J. Cheramie, President (Qualifying Individual). Linda A. Cheramie, Treasurer.

Dated: June 18, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–14876 Filed 6–23–09; 8:45 am]

BILLING CODE 6730–01–P

GENERAL SERVICES ADMINISTRATION

Public Building Service; Notice of Availability; Environmental Assessment and Finding of No Significant Impact

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Notice of availabilty.

SUMMARY: The General Services Administration is publishing a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the proposed reconfiguration and expansion of the Nogales Mariposa land port of entry in Nogales, Arizona.

FOR FURTHER INFORMATION CONTACT: Greg Smith, Regional Environmental Quality Advisor (REQA), US General Services Administration, Portfolio Management Division, 880 Front St., Room 4236, San Diego, CA 92101, phone 619–557–6169, or e-mail: *Greg.Smith@gsa.gov.*

SUPPLEMENTARY INFORMATION: The Mariposa U.S. Border Station at Nogales, Arizona is a full-service land port of entry (LPOE) where the Federal Government inspects privately-owned vehicles (POV), pedestrians, and commercial vehicles seeking to enter the United States. Immediately to the south is the Mexican City of Nogales, Sonora.

Since the existing LPOE was constructed, the population of the region has grown, inspection technology has significantly improved, law enforcement activities have increased, and trade policies have changed dramatically. Consequently, the existing facilities are overloaded and in need of repair, equipment upgrades, and expansion. A larger, more efficient LPOE is needed to expedite trade and tourism while meeting the security needs of the U.S. Customs and Border Protection Division.

Details of the Proposed Action are described in a NEPA document entitled *Nogales Mariposa US Land Port of Entry Final Environmental Assessment* (Aztec Engineering, June 2009). The Draft EA was published and circulated among responsible government agencies and the public for a period of no less than 45 days. A public meeting on the Draft EA was held on Tuesday, September 12, 2006. Comments received during the meeting and circulation period were considered by GSA in this final decision. The action proposed includes mitigation measures to reduce impacts identified in the EA to a level that is less than significant.

Finding

Pursuant to the provision of GSA Order ADM 1095.1F, the PBS NEPA Desk Guide, and the regulations issued by the Council of Environmental Quality, (40 CFR parts 1500 to 1508), this notice advises the public of our finding that the action described above will not significantly affect the quality of the human environment.

Basis for Finding

The environmental impacts of constructing and operating the proposed facilities were considered in the Final EA and FONSI pursuant to the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations implementing NEPA. The build alternative will result in temporary construction impacts involving the air quality (dust) and noise, a minor loss of soil and vegetation, and potential stormwater pollution runoff from the site. To mitigate potential long-term impacts, GSA will implement the measures that are discussed in the Environmental Assessment and FONSI.

The Final EA and FONSI are available for review at the San Luis Public Library, 731 N 1st Ave., San Luis, AZ 85349. The Final EA and FONSI can also be viewed on the GSA Web site at *http://www.gsa.gov/nepa*. Click on *NEPA Library → Public Documents.*

The Finding of No Significant Impact will become final thirty (30) days after the publication of this notice, provided that no information leading to a contrary finding is received or comes to light during this period.

Dated: June 17, 2009.

Abdee Gharavi,

Portfolio Management Division Director, 9PT, GSA Region 9.

[FR Doc. E9–14781 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–YF–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0102]

Federal Acquisition Regulation; Information Collection; Prompt Payment

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 Prompt Payment.

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 24, 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. 9000–0102, Prompt Payment, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3221.

A. Purpose

Part 32 of the FAR and the clause at FAR 52.232–5, Payments Under Fixed-

Price Construction Contracts, require that contractors under fixed price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232–27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts—

(a) Notify subcontractors/suppliers of any amounts to be withheld and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government, or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontractors and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Public Law 100–496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with the requirements of the law if this information were not collected.

B. Annual Reporting Burden

Respondents: 36,666.
Responses per Respondent: 11.
Total Responses: 403,326.
Hours per Response: 11.
Total Burden Hours: 44,366.

C. Annual Recordkeeping Burden

Recordkeepers: 33,333.
Hours per Recordkeeper: 18.
Total Recordkeeping Burden Hours: 599,994.

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. 9000–0102, Prompt Payment, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14804 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0073]

Federal Acquisition Regulation; Information Collection; Advance Payments

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 Advance Payments.

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 24, 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. 9000–0073, Advance Payments, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3221.

A. Purpose

Advance payments may be authorized under Federal contracts and subcontracts. Advance payments are the least preferred method of contract financing and require special determinations by the agency head or designee. Specific financial information about the contractor is required before determinations by the agency head or designee. Specific financial information about the contractor is required before such payments can be authorized (*see* FAR 32.4 and 52.232–12). The information is used to determine if advance payments should be provided to the contractor.

B. Annual Reporting Burden

Respondents: 500.

Responses per Respondent: 1.

Annual Responses: 500.

Hours per Response: 1.

Total Burden Hours: 500.

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. 9000–0073, Advance Payments, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14827 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0074]

Federal Acquisition Regulation; Information Collection; Contract Funding—Limitation of Costs/Funds

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 Contract Funding—Limitation of Costs/Funds.

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 24, 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. 9000–0074, Contract Funding—Limitation of Costs/Funds, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3221.

A. Purpose

Firms performing under Federal cost-reimbursement contracts are required to notify the contracting officer in writing whenever they have reason to believe—

(1) The costs the contractors expect to incur under the contracts in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost of the contracts; or

(2) The total cost for the performance of the contracts will be greater or substantially less than estimated. As a part of the notification, the contractors must provide a revised estimate of total cost.

B. Annual Reporting Burden

Respondents: 53,456.
Responses per Respondent: 1.
Annual Responses: 53,456.
Hours per Response: .5.
Total Burden Hours: 26,728.
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. 9000–0074, Contract Funding—Limitation of Costs/Funds, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14831 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0058]

Federal Acquisition Regulation; Information Collection; Schedules for Construction Contracts

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 Schedules for Construction Contracts.

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 24, 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. 9000–0058, Schedules for Construction Contracts, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3775.

A. Purpose

Federal construction contractors may be required to submit schedules, in the form of a progress chart, showing the order in which the contractor proposes to perform the work. Actual progress shall be entered on the chart as directed by the contracting officer. This information is used to monitor progress under a Federal construction contract when other management approaches for ensuring adequate progress are not used.

B. Annual Reporting Burden

Respondents: 2,600.
Responses per Respondent: 2.
Annual Responses: 5,200.
Hours per Response: 1.
Total Burden Hours: 5,200.
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. 9000–0058, Schedules for Construction Contracts, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14829 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0066]

Federal Acquisition Regulation; Submission for OMB Review; Professional Employee Compensation Plan

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 Professional Employee Compensation Plan. A request for public comments was published in the **Federal Register** at 73 FR 18521, April 4, 2008.

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 July 24, 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 (GSA), OMB Desk Officer, Room 10236, NEOB, Washington, DC 20503, and send a copy to the Regulatory Secretariat (VPR), 1800 F Street NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0066, Professional Employee Compensation Plan, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3775.

A. Purpose

FAR 22.1103 requires that all professional employees shall be compensated fairly and properly. Accordingly, a total compensation plan setting forth proposed salaries and fringe benefits for professional employees with supporting data must be submitted to the contracting officer for evaluation.

B. Annual Reporting Burden

Respondents: 8,670.
Responses per Respondent: 1.
Total Responses: 8,670.
Hours per Response: .5.
Total Burden Hours: 4,335.
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. 9000–0066, Professional Employee Compensation Plan, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14828 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0091]

Federal Acquisition Regulation; Information Collection; Anti-Kickback Procedures

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 Anti-Kickback Procedures.

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 24, 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. 9000–0091, Anti-Kickback Procedures, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Procurement Analyst, Contract Policy Division, GSA, (202) 208–6925.

A. Purpose

Federal Acquisition Regulation (FAR) 52.203–7, Anti-Kickback Procedures, requires that all contractors have in place and follow reasonable procedures designed to prevent and detect in its own operations and direct business relationships, violations of section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 51–58). Whenever prime contractors or subcontractors have reasonable grounds to believe that a violation of section 3 of the Act may have occurred, they are required to report the possible violation in writing to the contracting agency or the Department of Justice. The information is used to determine if any violations of section 3 of the Act have occurred.

B. Annual Reporting Burden

Respondents: 100.
Responses per Respondent: 1.
Annual Responses: 100.
Hours per Response: 1.
Total Burden Hours: 100.
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. 9000–0091, Anti-Kickback Procedures, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14826 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0059]

Federal Acquisition Regulation; Information Collection; North Carolina Sales Tax 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 North Carolina Sales Tax 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 24, 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. 9000–0059, North Carolina Sales Tax Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3221.

A. Purpose

The North Carolina Sales and Use Tax Act authorizes counties and incorporated cities and towns to obtain each year from the Commissioner of Revenue of the State of North Carolina a refund of sales and use taxes indirectly paid on building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure in North Carolina. However, to substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must secure from the contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales or use taxes paid. Similar certified statements by subcontractors must be obtained by the general contractor and furnished to the Government. The information is used as evidence to establish exemption from State and local taxes.

B. Annual Reporting Burden

Respondents: 424.
Responses per Respondent: 1.
Annual Responses: 424.
Hours per Response: .17.
Total Burden Hours: 72.
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. 9000–0059, North Carolina Sales Tax Certification, in all correspondence.

Dated: June 18, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–14805 Filed 6–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Jennifer Wanchick, MetroHealth System: Based on reports submitted by MetroHealth System's inquiry and investigation committees, the Respondent's own repeated admissions, and additional analysis conducted by ORI during its oversight review, the U.S. Public Health Service (PHS) found that Ms. Jennifer Wanchick, former Research Assistant, MetroHealth System (an affiliated hospital of Case Western Reserve University), engaged in research misconduct in research supported by National Center on Minority Health and Health Disparities (NCMHD), National Institutes of Health (NIH), grant P60 MD002265.

Specifically, by her own admission, Ms. Wanchick engaged in research misconduct by fabricating information in the electronic database purportedly collected from 150 individuals about their willingness to sign up to be an organ donor at the time they obtained a driver's license. Ms. Wanchick also admitted to fabricating the information on several survey instruments. The study at issue was entitled ''Community Based Intervention to Enhance Signing of Organ Donor Cards.''

ORI acknowledges Ms. Wanchick's cooperation and assistance in completing its oversight review and resolution of this matter.

Ms. Wanchick has entered into a Voluntary Settlement Agreement in which she has voluntarily agreed, for a period of three (3) years, beginning on June 5, 2009:

(1) To exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) that any institution that submits an application for PHS support for a research project on which the Respondent's participation is proposed or that uses the Respondent in any capacity on PHS-supported research, or that submits a report of PHS-funded research in which the Respondent is involved, must concurrently submit a plan for supervision of the Respondent's duties to the funding agency for approval. The supervisory plan must be designed to ensure the research integrity of the Respondent's research contribution. Respondent agrees to ensure that a copy of the supervisory plan also is submitted to ORI by the institution.

Respondent agrees that she will not participate in any PHS-supported research until such a supervisory plan is submitted to ORI.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

John Dahlberg,

Director, Division of Investigative Oversight, Office of Research Integrity.

[FR Doc. E9–14900 Filed 6–23–09; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-Day Proposed Information Collection: Indian Health Service Forms

AGENCY: Indian Health Service, HHS.

ACTION: Request for Public Comment: 60-Day Proposed Information Collection: Indian Health Service Forms to Implement the Privacy Rule (45 CFR Parts 160 & 164).

SUMMARY: The Indian Health Service (IHS), 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. Currently, the IHS is providing a 60-day advance opportunity for public comment on a proposed extension on collection of information to be submitted to the Office of Management and Budget for review.

Proposed Collection: Title: 0917–0030, ''IHS Forms to Implement the Privacy Rule (45 CFR Parts 160 & 164)''. *Type of Information Collection Request:* Extension, with revisions, of currently approved information collection, 0917–0030, ''IHS Forms to Implement the Privacy Rule (45 CFR Parts 160 & 164)''. *Form Number(s):* IHS–810, IHS–912–1, IHS 912–2, IHS–913 and IHS–917. *Need and Use of Information Collection:* This collection of information is made necessary by the Department of Health and Human Services Rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (''Privacy Rule'') (45 CFR Parts 160 and 164). The Privacy Rule implements the privacy requirements of the Administrative Simplification subtitle of the Health Information Portability and Accountability Act of 1996 and creates national standards to protect an individual's personal health information and gives patients increased access to their medical records. 45 CFR 164.508, 522, 526 and 528 of the Rule require the collection of information to implement these protection standards and access requirements. The IHS will use the following data collection instruments to continue the implementation of the information collection requirements contained in the Rule.

45 CFR 164.508: This provision requires covered entities to obtain or receive a valid authorization for its use or disclosure of protected health information for other than for treatment, payment and healthcare operations. Under the provision individuals may initiate a written authorization permitting covered entities to release their protected health information to entities of their choosing. The form IHS–810, ''Authorization for Use or Disclosure of Protected Health Information'' will be used to document an individual's authorization to use or disclose their protected health information.

45 CFR 164.522: Section 164.522(a)(1) requires a covered entity to permit individuals to request that the covered entity restrict the use and disclosure of their protected health information. The covered entity may or may not agree to the restriction. The form IHS–912–1, ''Request for Restriction(s)'' will be used to document an individual's request for restriction of their protected health information and whether IHS agreed or disagreed with the restriction. Section 164.522(a)(2)(1) permits a covered entity to terminate its agreement to a restriction if the individual agrees to or requests the termination in writing. The form IHS–912–2, ''Request for Revocation of Restriction(s)'' will be used to document the agency or individual request to terminate a formerly agreed to restriction regarding the use and disclosure of protected health information.

45 CFR 164.528 and 45 CFR 5b.9(c): This provision requires covered entities to permit individuals to request that the covered entity provide an accounting of disclosures of protected health information made by the covered entity. The form IHS–913, ''Request for an Accounting of Disclosures'' will be used to document an individual's request for an accounting of disclosures of their protected health information and the agency's handling of the request.

45 CFR 164.526: This provision requires covered entities to permit an individual to request that the covered entity amend protected health information. If the covered entity accepts the requested amendment, in whole or in part, the covered entity must inform the individual that the amendment is accepted and obtain the individual's identification of an agreement to have the covered entity notify the relevant persons with which the amendment needs to be shared. If the covered entity denies the requested amendment, in whole or in part, the covered entity must provide the individual with a written denial. The form IHS–917, ''Request for Correction/Amendment of Protected Health Information'' will be used to document an individual's request to amend their protected health information and the agency's decision to accept or deny the request.

Completed forms used in this collection of information are filed in the IRS medical, health and billing record, a Privacy Act System of Records Notice. *Affected Public:* Individuals and households. *Type of Respondents:* Individuals. *Burden Hours:* The table below provides the estimated burden hours for this information collection:

45 CFR section/IHS form	Number of respondents	Responses per respondent	Burden per response* (mins)	Total annual burden
164.506, IHS–810	500,000	1	20	166,667
164.522(a)(1), IHS–912–1	15,000	1	10	2,500
164.522(a)(2), IHS–912–2	5,000	1	10	833
164.528 IHS–913	15,000	1	10	2,500
164.526, IHS–917	7,500	1	15	1,875

45 CFR section/IHS form	Number of respondents	Responses per respondent	Burden per response* (mins)	Total annual burden
Total Annual Burden		5		174,375

*For ease of understanding, burden hours are provided in actual minutes.

The total estimated burden for this collection of information is 174,375 hours.

There are no capital costs, operating costs and/or maintenance costs to respondents.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests for Further Information: Send your written comments and requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Ms. Betty Gould, Acting IHS Reports Clearance Officer, 801 Thompson Avenue, TMP, Suite 450, Rockville, MD 20852, call non-toll free (301) 443–7899, send via facsimile to (301) 443–9879, or send your e-mail requests, comments, and return address to: *betty.gould@ihs.gov*.

Comment Due Date: Your comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

Dated: June 17, 2009.

Robert G. McSwain,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. E9–14841 Filed 6–23–09; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–09–09BW]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Postural Analysis in Low-Seam Mines—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH, under Public Law 91–596, sections 20 and 22 (section 20–22, Occupational Safety and Health Act of 1970) has the responsibility to conduct research relating to innovative methods, techniques, and approaches dealing with occupational safety and health problems.

According to the Mining Safety and Health Administration (MSHA) injury database, 227 knee injuries were reported in underground coal mining in 2007. With data from the National Institute for Occupational Safety and Health (NIOSH), it can be estimated that the financial burden of knee injuries was nearly three million dollars in 2007.

Typically, mine workers utilize kneepads to better distribute the pressures at the knee. The effectiveness of these kneepads is to be investigated in a study by NIOSH. Thus, NIOSH will be determining the forces, stresses, and moments at the knee while in postures associated with low-seam mining. At this time, the postures utilized by low-seam mine workers and their frequency of use are unknown. Therefore, before conducting this larger, experimental study, the proposed field study must be conducted.

The aim of the proposed field study is to determine the postures predominantly used by low-seam mine workers such that they may complete the various tasks associated with their job duties. A questionnaire was developed for each of the major job types seen in low-seam mines with continuous miners (continuous miner operator, roof bolter operator, shuttle car operator, mobile bridge operator, mechanic, beltman, maintenance shift worker, foreman). The questionnaire asks basic demographic information (*e.g.,* time in job type, years in mining, age). Additionally, a series of questions are asked such that it may be determined if a mine worker is likely to have a knee injury, even if it is undiagnosed. These questions were developed with the help of a physical therapist. A schematic of possible postures will then be presented to the mine workers and they will be asked to identify the primary two postures they utilize to complete their job duties. The questionnaire then asks mine workers to identify the primary postures they utilize to complete specific tasks (*e.g.,* hanging curtain, building stoppings) that are part of their job duties. Finally, mine workers are asked to identify those postures that are least and most comfortable/stressful. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Continuous Miner Operator	Continuous Miner Operator Form	5	1	10/60	1
Foreman	Foreman Form	5	1	10/60	1
Maintenance Shift Worker	Maintenance Shift Worker Form	10	1	10/60	2
Mobile Bridge Operator	Mobile Bridge Operator Form	10	1	10/60	2
Roof Bolter Operator	Roof Bolter Operator Form	14	1	10/60	2
Scoop Operator	Scoop Operator Form	6	1	10/60	1
Shuttle Car Operator	Shuttle Car Operator Form	6	1	10/60	1
Mechanic	Mechanic Form	6	1	10/60	1
Beltman	Beltman Form	2	1	10/60	0.5
Total					12

Dated: June 11, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–14834 Filed 6–23–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0275]

Convener of Active Medical Product Surveillance Discussion (U13)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of grant funds for the support of a neutral, independent institution and/or organization that proposes appropriate methods and processes for convening a broad range of stakeholders with relevant expertise to manage and support conferences and meetings. The focus of the conferences and meetings is to explore and address methodological, data development, technical, and communication issues related to active medical product surveillance. The awardee would be expected to synthesize, summarize, and communicate findings from these conferences and meetings to a broad range of organizations and individuals who have the capability to use the information to further develop and create active medical product surveillance methods and systems.

DATES: The application due date is July 15, 2009. The earliest start date is in September 2009.

FOR FURTHER INFORMATION AND ADDITIONAL REQUIREMENTS CONTACT:

Programmatic/Peer Review Contact: Melissa Robb, Office of Critical Path Programs, Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, rm. 14B–45, Rockville, MD 20857, 301–827–1516, e-mail: *melissa.robb@fda.hhs.gov*.

Financial or Grants Management Contact: Gladys M. Bohler, Office of Acquisitions and Grant Services, Food and Drug Administration, 5630 Fishers Lane, rm. 2105, Rockville, MD 20857, 301–827–7168, FAX: 301–827–7101, e-mail: *gladys.bohler@fda.hhs.gov*.

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at *http://www.fda.gov/Safety/FDAsSentinelInitiative/ucm149345.htm*.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Request for Applications (RFA) Number: RFA–FD09–012

Catalog of Federal Domestic Assistance Number: 93.103

A. Background

In 2007, Congress enacted the Food and Drug Administration Amendments Act of 2007 (FDAAA). Section 905 of this statute calls for the Secretary of Health and Human Services (the Secretary) to develop methods to obtain access to disparate data sources and to establish an active postmarket risk identification and analysis system that links and analyzes safety data from multiple sources. The law sets a goal of access to data from 25 million patients by July 1, 2010, and 100 million patients by July 1, 2012. The law also requires FDA to work closely with partners from public, academic, and private entities.

In May 2008, the Secretary and the Commissioner of Food and Drugs announced the launch of the Sentinel Initiative, a long-term effort to create a national electronic system for monitoring regulated product safety. Once implemented, the Sentinel System is intended to augment FDA's existing postmarket (primarily passive) safety surveillance systems and to enable FDA to actively gather information about the postmarket safety and performance of its regulated products. FDA views its Sentinel Initiative as a mechanism through which some of the requirements mandated in FDAAA can be carried out.

As currently envisioned, the Sentinel System will enable FDA to capitalize on the capabilities of multiple, existing automated healthcare data systems (e.g. electronic health record systems, administrative claims databases, registries). The Sentinel System will enable queries of disparate data sources quickly and securely for relevant regulated product safety information. Data will continue to be managed by its owners, and only data of organizations who agree to participate in this system will be involved. FDA questions would be sent to appropriate, participating data holders, who would, in accordance with existing privacy and security safeguards, evaluate their data and send results summaries to FDA for review.

Following announcement of the Sentinel Initiative in May 2008, FDA's first step has been to create a broad public forum for discussion of issues related to developing and implementing the Sentinel System. During 2008, FDA sponsored a series of exploratory meetings with a broad variety of stakeholders to identify key issues that will need to be addressed before, during, and after implementation of the Sentinel System. Key questions include, for example, what level of collaboration between public and private entities would best ensure the success of the initiative; how a possible governance model could be identified and developed; what kind of methods and tools will be needed to facilitate the

development and sharing of highly technical summary results derived from automated healthcare data in disparate systems; and what privacy and security safeguards will be needed and how will they be maintained.

B. Research Objectives

These initial discussions have focused on many of the policy and procedural needs of developing the Sentinel System. However, to proceed, additional meetings and working groups need to be formed to explore in greater depth the science of safety needed to support this initiative, as well as methods for communicating about the information learned from the system. Topics to be addressed include specific topics, issues, and questions related to the development of active medical product surveillance methodologies and tools. Subsequently, the information from these meetings and working groups must be described, managed, and made available to the public using a transparent and open approach.

C. Eligibility Information

The following organizations/institutions are eligible to apply: Non-profit organizations.

Foreign institutions are not eligible to apply for conference grant support. An international conference can be supported through the U.S. representative organization of an established international scientific or professional society.

II. Award Information/Funds Available

A. Award Amount

FDA anticipates providing up to $600,000 (direct cost only) during fiscal year (FY) 2009 to support efforts outlined in this FOA. One award will be made.

This Cooperative Agreement ensures substantial FDA involvement in this program and will include, but not be limited to, co-development of the meeting(s) priorities and agendas and providing feedback on reports and publications related to meeting proceedings on identified topics.

B. Length of Support

Subject to the availability of Federal funds and successful performance, and if the FOA stated objectives are met, an additional 4 years of support up to $600,000 (direct and indirect costs combined) per year may be available.

III. Electronic Application, Registration, and Submission

Only electronic applications will be accepted. To submit an electronic application in response to this FOA, applicants should first review the full announcement located at *http://www.fda.gov/Safety/FDAsSentinelInitiative/ucm149345.htm*.

For all electronically submitted applications, the following steps are required.

- Step 1: Obtain a Dun and Bradstreet (DUNS) Number
- Step 2: Register With Central Contractor Registration
- Step 3: Obtain Username & Password
- Step 4: Authorized Organization Representative (AOR) Authorization
- Step 5: Track AOR Status
- Step 6: Register With Electronic Research Administration (eRA) Commons

Steps 1 through 5, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp*. Step 6, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp*. After you have followed these steps, submit electronic applications to *http://www.grants.gov*.

Dated: June 19, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–14904 Filed 6–23–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group (NCIPC IRG)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Date: 9 a.m.–9:30 a.m., July 14, 2009(Open) 9:30 a.m.–5 p.m., July 14, 2009(Closed) 9 a.m.–5 p.m., July 15, 2009(Closed)

Place: Doubletree Hotel Atlanta-Buckhead, 3342 Peachtree Road, Atlanta, GA 30326, Telephone: (404) 231–1234.

Status: Portions of the meetings will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Section 10(d) of Public Law 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services, and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focuses on prevention and control.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of individual research cooperative agreement applications submitted in response to Fiscal Year 2009 Requests for Applications related to the following individual research announcement: RFA–CD–09–001 ''Translating Research to Protect Health through Health Promotion, Prevention, and Preparedness (R18)'' for the National Center for Injury Prevention and Control (NCIPC) applications.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Jane Suen, Dr.P.H., M.S., NCIPC, CDC, 4770 Buford Highway, NE., Mailstop F–62, Atlanta, Georgia 30341. Telephone: (770) 488–4281.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 12, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–14740 Filed 6–23–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Public Health Service Act, Section 330(e)

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notification of Exception to Competition—Replacement Grant.

SUMMARY: The Health Resources and Services Administration (HRSA) is issuing a non-competitive award to the Community Health Clinics of Northeast Texas (CHCNET) to avoid disruption and continue providing primary health care services to the population of Smith County, Texas, as an independent organization from the Northeast Texas Public Health District (NETPHD).

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Community Health Clinics of Northeast Texas.

Amount of the Award: $326,308.00 (initial seven-month supplement,

February 1, 2009, through August 31, 2009) and $601,308.00 (anticipated second 12-month supplement September 1, 2009, through August 31, 2010) to ensure ongoing clinical services to the target population.

Project Period: The current approved project period for NETPHD which will be supplemented began on September 1, 2007, and ends August 31, 2010; and its current budget period ends August 31, 2009.

Authority: This activity is under the authority of the Public Health Service Act, Section 330(e).

Catalogue of Federal Domestic Assistance Number: 93.224.

Justification for the Exception to Competition: Critical funding for Primary Health Care services to the population of Smith County, Texas, will be continued through a non-competitive award to Community Health Clinics of Northeast Texas as a new recipient. This non-competitive award is made because the previous grant recipient (NETPHD) serving this population notified HRSA that they would relinquish the grant and its responsibility to CHCNET. CHCNET has been responsible for the clinical operations of the program and will continue to operate the previously approved scope of project without significant changes in the organizational structure. This non-competitive replacement award will permit the new recipient to maintain the service delivery program and will ensure continuity of services. The initial supplemental funding will provide support for 7 months. Based on satisfactory performance, continued need, and availability of funds, a second and final supplemental award for these services will be awarded for 12 months. Further funding beyond August 31, 2010, for this service area will be competitively awarded during the next PHS Section 330 Health Center Program competing application process. The next available PHS Section 330 Health Center Program open competing cycle will occur in fiscal year 2009.

FOR FURTHER INFORMATION CONTACT: Monica Toomer, Chief, Southwest Branch, Central Mid-Atlantic Division, Bureau of Primary Health Care, Health Services and Resources Administration, 5600 Fishers Lane, Rockville, MD 20857; phone 301–594–4434; *Monica.Toomer@hrsa.hhs.gov.*

Dated: June 18, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–14902 Filed 6–23–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

The Essentials of Medical Device Regulations: A Primer for Manufacturers and Importers; Public Seminar

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public seminar.

SUMMARY: The Food and Drug Administration's (FDA's) Center for Devices and Radiological Health and Office of Regulatory Affairs, in cooperation with AdvaMed's Medical Technology Learning Institute, is announcing a series of three public seminars on FDA medical device regulations.

These 2-day public seminars, which are designed to address the training needs of startup and small device manufacturers and their suppliers, will include both industry and FDA perspectives and a question and answer period.

DATES: For the dates of the public seminars, see table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: For the locations of the public seminars, see table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

For FDA:

William Sutton, Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health, 10903 New Hampshire Ave., W066–4626, Silver Spring, MD 20993–0002, 301–796–5849, FAX: 301–847–8149, e-mail: *William.Sutton@fda.hhs.gov*.

For AdvaMed:

For hotel and general information: Veronica Allen, 202–434–7231, *vallen@advamed.org*.

For registration information: Katia Kunze, 202–434–7237, FAX: 202–783–8750, *kkunze@advamed.org*

SUPPLEMENTARY INFORMATION:

I. Background

The ''Essentials of Medical Device Regulations: A Primer for Manufacturers and Importers'' seminar helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health by educating new entrepreneurs on the essentials of FDA device regulations. FDA has made education of the medical device community a high priority to assure the quality of products reaching the marketplace and to increase the rate of voluntary industry compliance with regulations.

The seminar helps to implement the objectives of section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393) and the FDA Plan for Statutory Compliance, which includes working more closely with stakeholders and ensuring access to needed scientific and technical expertise.

The seminar also furthers the goals of the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121) by providing outreach activities by Government agencies directed at small businesses.

The following topics, as well as others, will be discussed at the seminar:

- Doing business in a regulated industry;
- Organizational structure of FDA;
- Overview of the quality system regulation;
- Design controls;
- Documents, records, and change control;
- Purchasing controls and acceptance activities;
- Production and process control;
- Corrective and preventive actions;
- Complaints, medical device reports, corrections, and recalls;
- Compliance issues;
- Management responsibility;
- Interacting with FDA—Where do you go for assistance?
- General question and answer session;
- Manufacturers and suppliers—The chain regulatory responsibility;
- Reimbursement of medical technology;
- The AdvaMed code of ethics; and
- Fraud and abuse.

II. Public Seminar Locations and Dates

The locations and dates for the public seminars are listed in table 1 of this document.

TABLE 1.—SEMINAR LOCATIONS AND DATES

Seminar Location	Date
Coronado Island Marriott Resort and Spa, 2000 Second St., Coronado, CA 92118. Details are posted on AdvaMed's Web site at *www.advamedmtli.org/san_diego*[1]	July 14 and 15, 2009
Gaylord Opryland Resort, 2802 Opryland Dr., Nashville, TN 37214. Details are posted on AdvaMed's Web site at *www.advamedmtli.org/nashville*[1]	August 4 and 5, 2009
San Juan Marriott Resort and Stellaris Casino, 1309 Ashford Ave., San Juan, PR 00907. Details are posted on AdvaMed's Web site at *www.advamedmtli.org/puerto_rico*[1]	August 12 and 13, 2009

[1] FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.

III. Registration

The registration fee is $650 per person per seminar. The registration fee will be used to offset the expenses of hosting the conference, including meals (breakfasts and a lunch), refreshments, meeting rooms, and training materials. It also includes a networking reception on the evening of the first day of each seminar.

To register and pay by personal check: Send your registration information (including name, title, firm name, address, telephone, and fax number) to Katia Kunze, AdvaMed, 202–434–7237, FAX: 202–783–8750, or email *kkunze@advamed.org*. Katia Kunze will then provide you with information on how to pay your registration fee by check.

To register and pay via the Internet: Visit the designated Web site for the seminar that you plan to attend (see table 1 of this document). Payment forms accepted are major credit card (MasterCard, Visa, or American Express).

Space is limited; therefore, interested parties are encouraged to register early. If you need special accommodations due to a disability, please contact Veronica Allen (see **FOR FURTHER INFORMATION CONTACT**) at AdvaMed at least 7 days in advance of the seminar.

Attendees are responsible for their own accommodations. For hotel information and meeting locations, see table 1 of this document. There are a limited number of hotel rooms blocked for the seminars. Please be advised that the seminar room blocks close 1 month before the beginning of the seminar. Interested parties are encouraged to make hotel reservations early, as the seminar room block will fill up quickly.

Dated: June 19, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–14907 Filed 6–23–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 1448 Texas Ave., Texas City, TX 77590, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on February 12, 2009. The next triennial inspection date will be scheduled for February 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14915 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 4701 East Napoleon (Hwy 90), Sulfur, LA 70663, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to

cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.*

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on April 8, 2009. The next triennial inspection date will be scheduled for April 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14898 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Saybolt LP, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Saybolt LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt LP, P.O. Box 7416, Garden City, GA 31408, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of Saybolt LP, as commercial gauger and laboratory became effective on March 26, 2009. The next triennial inspection date will be scheduled for March 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14897 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Saybolt LP, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Saybolt LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt LP, 3113 Red Bluff Road, Pasadena, TX 77503, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.*

DATES: The accreditation and approval of Saybolt LP, as commercial gauger and laboratory became effective on February 4, 2009. The next triennial inspection date will be scheduled for February 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14896 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Inspectorate America Corporation, 141 N. Pasadena Blvd., Pasadena, TX 77506, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/*

labs_scientific_svcs/commercial_gaugers/.

DATES: The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on February 25, 2009. The next triennial inspection date will be scheduled for February 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14895 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of NMC Global Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of NMC Global Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, NMC Global Corporation, 1100 Walnut St., Roselle, NJ 07203, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.*

DATES: The accreditation and approval of NMC Global Corporation, as commercial gauger and laboratory became effective on April 1, 2009. The next triennial inspection date will be scheduled for April 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14893 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2009–0115]

Collection of Information Under Review by Office of Management and Budget: OMB Control Numbers: 1625–0009, 1625–0047, 1625–0063, 1625–0070, and 1625–0084

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the U.S. Coast Guard is forwarding five Information Collection Requests (ICRs), abstracted below, to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) requesting an extension of its approval for the following collections of information: (1) 1625–0009, Oil Record Book for Ships; (2) 1625–0047, Plan Review and Records for Vital System Automation;

(3) 1625–0063, Marine Occupational Health and Safety Standards for Benzene—46 CFR 197 subpart C; (4) 1625–0070, Vessel Identification System; and (5) 1625–0084, Audit Reports under the International Safety Management Code. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before July 24, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2009–0115] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) or to OIRA. To avoid duplication, please submit your comments by only one of the following means:

(1) Electronic submission. (a) To Coast Guard docket at *http://www.regulation.gov.* (b) To OIRA by e-mail via: *oira_submission@omb.eop.gov.*

(2) Mail or Hand delivery. (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) Fax. (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in time, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.*

Additionally, copies are available from: Commandant (CG–611), Attn Paperwork Reduction Act (PRA) Manager, US Coast Guard, 2100 2nd St, SW., Stop 7101, Washington, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

The Coast Guard invites comments on whether these ICRs should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on

respondents, including the use of automated collection techniques or other forms of information technology.

Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2009–0115]. For your comments to OIRA to be considered, it is best if they are received on or before July 24, 2009.

Public participation and request for comments: We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2009–0115], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8–1/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. In response to your comments, we may revise the ICR or decide not to seek an extension of approval for this collection. The Coast Guard and OIRA will consider all comments and material received during the comment period.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this Notice as being available in the docket. Enter the docket number [USCG–2009–0115] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 the Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments.

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (74 FR 10752, March 12, 2009) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request.

1. *Title:* Oil Record Book for Ships.

OMB Control Number: 1625–0009.

Type of Request: Extension of a currently approved collection.

Respondents: Operators of vessels.

Abstract: This information is used to verify sightings of actual violations of the Act to Prevent Pollution from Ships to determine the level of compliance with MARPOL 73/78 and as a means of reinforcing the discharge provisions.

Forms: CG–4602A.

Burden Estimate: The estimated burden has decreased from 26,993 hours to 19,425 hours a year.

2. *Title:* Plan Review and Records for Vital System Automation.

OMB Control Number: 1625–0047.

Type of Request: Extension of a currently approved collection.

Respondents: Designers, manufacturers, and owners of vessels.

Abstract: Title 46 U.S.C. 3306 authorizes the Coast Guard to promulgate regulations for the safety of personnel and property on board vessels. Various sections within parts 52, 56, 58, 62, 110, 111, and 113 of Title 46 of the CFR contain these rules.

Forms: None.

Burden Estimate: The estimated burden has decreased from 65,400 hours to 60,000 hours a year.

3. *Title:* Marine Occupational Health and Safety Standards for Benzene —46 CFR 197 subpart C.

OMB Control Number: 1625–0063.

Type of Request: Extension of a currently approved collection.

Respondents: Owners and operators of vessels.

Abstract: This information collection is vital to verifying compliance.

Forms: None.

Burden Estimate: The estimated burden remains 59,766 hours a year.

4. *Title:* Vessel Identification System.

OMB Control Number: 1625–0070.

Type of Request: Extension of a currently approved collection.

Respondents: Governments of States and Territories.

Abstract: Title 46 U.S.C. 12501 mandates the establishment of a Vessel Identification System (VIS). Title 33 CFR part 187 prescribe the requirements of VIS.

Forms: None.

Burden Estimate: The estimated burden has decreased from 5,829 hours to 5,456 hours a year.

5. *Title:* Audit Reports under the International Safety Management Code.

OMB Control Number: 1625–0084.

Type of Request: Extension of a currently approved collection.

Respondents: Owners/operators of vessels and organizations authorized to issue International Safety Management Code certificates for the United States.

Abstract: Title 46 U.S.C. 3203 authorizes the Coast Guard to prescribe regulations regarding safety management systems. Title 33 CFR part 96 contains the rules for those systems; hence the safe operation of vessels.

Forms: None.

Burden Estimate: The estimated burden has increased from 12,676 hours to 16,873 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 16, 2009.

M. B. Lytle,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E9–14744 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Crew Member's Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing information collection: 1651–0021.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Crew Member's Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before August 24, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document the CBP is soliciting comments concerning the following information collection:

Title: Crew Member's Declaration.

OMB Number: 1651–0021.

Form Number: Form 5129 .

Abstract: The Form 5129 is used to accept and record importations of merchandise by crew members, and to enforce agricultural quarantines, currency reporting laws, and revenue collection laws. CBP is proposing to increase the burden hours for this collection of information as a result of increasing the estimated time to fill out Form 5129 from 3 minutes to 10 minutes.

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 6,000,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 996,000.

Dated: June 18, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9–14894 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2009–0457]

Information Collection Request to Office of Management and Budget; OMB Control Numbers: 1625–0057, 1625–0065, 1625–0104, and 1625–0105

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) and Analyses to the Office of Management and Budget (OMB) requesting an extension of its approval for the following collections of information: (1) 1625–0057, Small Passenger Vessels—Title 46 CFR Subchapters K and T; (2) 1625–0065, Offshore Supply Vessels—Title 46 CFR Subchapter L; (3) 1625–0104, Barges Carrying Bulk Hazardous Materials; and (4) 1625–0105, Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District. Before submitting these ICRs to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before August 24, 2009.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2009–0457], please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

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

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

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–611), Attn Paperwork Reduction Act (PRA) Manager, US Coast Guard, 2100 2ND ST SW. STOP 7101, Washington DC 20593–7101. The telephone number is 202–475–3523.

For Further Information: Contact Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public participation and request for comments

The Coast Guard invites comments on whether these ICRs should be granted based on the collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of the collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2009–0457], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your

submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8–½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this Notice as being available in the docket. Enter the docket number for this Notice [USCG–2009–0457] in the Search box, and click ''Go >>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 the Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Information Collection Request.

1. *Title:* Small Passenger Vessels—Title 46 CFR Subchapters K and T.

OMB Control Number: 1625–0057.

Summary: The information requirements are necessary for the proper administration and enforcement of the program on safety of commercial vessels as it affects small passenger vessels (under 100 gross tons) that carry more than 6 passengers.

Need: Under the authority of 46 U.S.C. 3305 and 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of small passenger vessels to secure the safety of individuals and property on board. The Coast Guard uses the information in this collection to ensure compliance with the requirements.

Forms: CG–841, CG–854, CG–948, CG–949, CG–3752, CG–5256.

Respondents: Owners and operators of small passenger vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 353,263 hours to 380,185 hours a year.

2. *Title:* Offshore Supply Vessels—Title 46 CFR Subchapter L.

OMB Control Number: 1625–0065.

Summary: Title 46 U.S.C. 3305 and 3306 authorizes the Coast Guard to prescribe safety regulations. Title 46 CFR Subchapter L promulgates marine safety regulations for offshore supply vessels (OSV).

Need: The OSV posting/marking requirements are needed to provide instructions to those onboard of actions to be taken in the event of an emergency. The reporting/recordkeeping requirements verify compliance with regulations without Coast Guard presence to witness routine matters, including OSVs based overseas as an alternative to Coast Guard re-inspection.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 6,169 hours to 2,068 hours a year.

3. *Title:* Barges Carrying Bulk Hazardous Materials.

OMB Control Number: 1625–0104.

Summary: This information is needed to ensure the safe shipment of bulk hazardous liquids in barges. The requirements are necessary to ensure barges meet safety standards and crewmembers have the information necessary to operate barges safely.

Need: Title 46 U.S.C. .3703 authorizes the Coast Guard to prescribe rules related to the carriage of liquid bulk dangerous cargoes. Title 46 CFR part 151 prescribes rules for barges carrying bulk liquid hazardous materials.

Forms: None.

Respondents: Owners and operators of tank barges.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 13,255 hours to 29,281 hours a year.

4. *Title:* Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District.

OMB Control Number: 1625–0105.

Summary: The Coast Guard requires position, intended movement, and fleeting operations reporting from barges carrying certain dangerous cargoes (CDCs) in the inland rivers within the Eighth and Ninth Coast Guard Districts.

Need: This information is used to ensure port safety and security, as well as, the uninterrupted flow of commerce.

Forms: None.

Respondents: Owners, agents, masters, towing vessel operators, persons in charge of barges loaded with CDCs, or having CDC residue operating on the inland rivers within the Eighth and Ninth Coast Guard Districts.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 1,179 hours to 2,196 hours a year.

Dated: June 16, 2009.

M. B. Lytle,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E9–14753 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Saybolt LP, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Saybolt LP, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Saybolt LP, 905C Eastern Blvd., Clarksville, IN 47129, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The approval of Saybolt LP, as commercial gauger became effective on September 10, 2008. The next triennial inspection date will be scheduled for September 2011.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania

Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14912 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Saybolt LP, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Saybolt LP, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Saybolt LP, 139 Castle Coakley Bay #4, St. Croix, VI 5620, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.*

DATES: The approval of Saybolt LP, as commercial gauger became effective on April 21, 2009. The next triennial inspection date will be scheduled for April 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2009.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E9–14888 Filed 6–23–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR–5335–N–01]

Protecting Tenants at Foreclosure: Notice of Responsibilities Placed on Immediate Successors in Interest Pursuant to Foreclosure of Residential Property

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, and Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD seeks to ensure that individuals or entities that participate in HUD programs or with whom HUD interacts through its programs are aware of obligations imposed on immediate successors of interest in any residential property pursuant to a foreclosure to provide tenants residing in such property, including but not limited to tenants with Section 8 rental assistance, with at least 90 days' advance notice of the need to vacate the property, where the successor desires to have the tenants vacate. In addition, except for purchasers who will occupy the property as the primary residence, successors take their interest subject to the remaining term of any bona fide lease. These obligations are broadly imposed on immediate successors in interest by the Helping Families Save Their Homes Act of 2009. While HUD is directing this notice to entities and individuals that participate in HUD programs or with whom HUD interacts in its HUD programs (for example, approved mortgagees, approved nonprofit organizations, housing counseling agencies, and public housing agencies), these obligations are not limited to FHA-insured or HUD-assisted housing. The responsibility for meeting the new tenant protection requirements applies to all successors in interest of residential property, regardless of whether a Federally related mortgage is present. The immediate successors in interest of a residential property, which is being foreclosed, bear direct responsibility for meeting the requirements of the law. These protections are self-executing, and became effective May 20, 2009.

For Further Information: For questions relating to FHA's Insured Housing programs, including multifamily housing, contact FHA's Resource Center at 1–800–CALL–FHA (1–800–225–5342). For questions relating to HUD's Public and Indian Housing programs, including Section 8 vouchers, contact Brian Gage, Office of Housing Voucher Management, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 402–4254. For both sets of contact, the applicable address is Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Persons with hearing or speech impairments may access these numbers via TDD/TTY by calling 1–877–TDD–2HUD (1–877–833–2483).

SUPPLEMENTARY INFORMATION:

I. Background

The Protecting Tenants at Foreclosure Act of 2009 (PTFA), part of the Helping Families Save Their Homes Act of 2009 (Pub. L. 111–22, approved May 20, 2009), requires that tenants residing in foreclosed residential properties be provided notice to vacate at least 90 days in advance of the date by which the immediate successor, generally, the purchaser, seeks to have the tenants vacate the property. Except where the purchaser will occupy the property as the primary residence, the term of any bona fide lease also remains in effect.

With the unprecedented number of foreclosures occurring across the country, it became increasingly evident that not only were homeowners the victims of the downturn in the economy, but tenants residing in residential properties were also victims of the foreclosure crisis. All too often, tenants were caught unaware that the residential property in which they reside was being foreclosed and were given little notice of the need to vacate the property. The objective of these new tenant protections is to ensure that tenants receive appropriate notice of foreclosure and are not abruptly displaced.

PFTA Sections 702 and 703 define the scope of PFTA's coverage over residential properties. The Section 702 requirements to provide tenants with at least 90 days' advance notice to vacate and to preserve the term of any bona fide lease apply to foreclosures on all Federally related mortgage loans or on any dwelling or residential real property. Section 703 makes conforming changes consistent with the Section 702 requirements to the Section 8 rental voucher assistance provisions of the United States Housing Act of 1937 (1937 Act). Both Section 702 and Section 703 sunset on December 31, 2012.

The American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009) (Recovery Act) contains similar tenant protections under the heading ''Community Development Fund'' in

Title XII of Division A, which applies to emergency assistance funding provided for the Neighborhood Stabilization Program. The requirement to comply with these protections was included in the funding allocation documents for the Neighborhood Stabilization Program and is not further discussed in this notice.

This notice provides an overview of these tenant protections provisions, addresses their applicability to HUD programs, provides basic guidance, and advises where HUD program participants and other interested parties may find more detailed guidance directed to their programs.

II. The Tenant Protections of Section 702

A. Overview of Section 702

The coverage of Section 702 is very broad. Section 702 applies, commencing after May 20, 2009, the date of enactment, to ''any foreclosure'' on (1) a Federally related mortgage loan, or (2) any dwelling or residential real property. Section 702 provides that ''Federally-related mortgage loan'' has the same meaning as that provided in section 3 of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2602).

The definition of Federally-related mortgage loan is very broad in RESPA, but Federally related mortgage loans represent only part of Section 702's coverage. Section 702 also covers ''any dwelling or residential property,'' which extends the requirements to all residential property foreclosures, regardless of type or entity involved in the foreclosure, and regardless of whether the tenants are recipients of any type of housing assistance.

The tenants to whom the notice must be provided must be bona-fide tenants as this term is defined in Section 702(b). Section 702(b) defines bona fide lease or tenancy, and under this definition, bona fide tenants do not include the mortgagor or the child, spouse or parent of the mortgagor. (See 702(b)(1).) With respect to the lease, Section 702(b)(2) and (3) provide that a bona fide lease or tenancy must have been the result of an arms-length transaction, and the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy. Section 702(a)(2)(B) clarifies that the protections provided by this new law are minimum protections and do not supersede any greater protections (longer advance notice or additional protections) provided by State or local law.

Accordingly, the requirement of Section 702 to provide at least 90 days notice to tenants applies as follows:

(1) The advance notice applies to tenants in any foreclosed dwelling or residential real property, regardless of the type of loan or other security interest on the property.

(2) An advance notice of 90 days is the minimum period of notification. A longer period may be provided, for example, if greater protections are provided by State or local law.

(3) Responsibility for providing the advance notice to tenants falls on the immediate successor in interest of the property, which will generally be the purchaser.

(4) The notice must be given to anyone who, as of the date of the notice of foreclosure, is a bona fide tenant, whether or not there is a lease.

In addition, Section 702 provides that a tenant under any bona fide lease entered into before the notice of foreclosure has the right to occupy the premises until the end of the remaining term of the lease. The only exception to preserving the remaining term of the lease is for a purchaser who will occupy the unit as a primary residence. Even under this exception, however, the tenant must still be provided with the 90-day advance notice to vacate.

A lease or tenancy must meet the following requirements to be ''bona fide'' for purposes of Section 702:

(1) The tenant cannot be the mortgagor or the child, spouse, or parent of the mortgagor,

(2) The lease or tenancy must be the result of an arms-length transaction, and

(3) The rent required under the lease cannot be substantially less than fair market rent for the property or the rent is subsidized by a Federal, State or local subsidy.

B. FHA–Insured Single Family and Multifamily Housing Programs, and Housing Counselors

The Office of Housing will be providing additional guidance for its programs in an effort to ensure that, to the extent foreclosures involve FHA-insured or formerly FHA-insured mortgages, the requirements of PFTA are observed. Although terminations of tenancies are not usually sought immediately after foreclosure on HUD multifamily projects, prospective purchasers of multifamily properties in HUD's programs should nevertheless be aware that the Section 702 protections apply if, in fact, the immediate successor after a foreclosure wishes the tenants to vacate. HUD will include in its Invitation to Bid on multifamily foreclosures a reminder of the tenant protections that need to be followed if the new owner desires tenants to vacate the property.

III. The Tenant Protections of Section 703

A. Overview of Section 703

Section 703 of PFTA addresses residential housing in which tenants who receive section 8 rental voucher assistance reside. The protections provided to tenants in Section 703 are not in lieu of the protections of Section 702 (the two statutory sections are not exclusive of one another) but rather Section 703 makes conforming changes to the United States Housing Act of 1937 (1937 Act) to provide PTFA coverage for the leases and housing assistance payments contracts applicable for tenants receiving section 8 rental voucher assistance.

Section 8(o)(7) of the 1937 Act (42 U.S.C. 1437f(o)(7)) provides that each housing assistance payment (HAP) contract entered into by the public housing agency and the owner of a dwelling unit shall provide, among other things that, during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence.

To these existing tenant protections, Section 703 provides that the HAP contract shall further provide that in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease, vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner:

(1) Will occupy the unit as a primary residence, and

(2) Has provided the tenant a notice to vacate at least 90 days before the effective date of such notice;

Section 8(o)(7) of the 1937 Act is further amended by Section 703 to provide that the successor in interest in the case of any foreclosure of a property in which a voucher recipient resides assumes the interest in the property subject to the lease and HAP contract in place before the foreclosure. This

provision confirms that the section 8 tenant's lease is, in effect, a bona fide lease and that the HAP contract survives the foreclosure, just as the lease does. Similar to Section 702, the provisions of Section 703 shall not affect any State or local law that provides additional time frames or protections for tenants.

B. Participants in HUD's Section 8 Voucher Programs

Immediate successor owners of foreclosed properties in which section 8 voucher recipients reside become participants in HUD's Section 8(o) tenant-based voucher programs and must comply with Sections 702 and 703. The following requirements apply to such foreclosed properties as long as the immediate successor in interest retains the interest and until the sunset date of the PTFA, December 31, 2012.

- A demand upon the section 8 voucher recipient to vacate the property prior to a sale of the property shall not constitute ''other good cause'' as meant in HUD's regulations on termination of tenancy (24 CFR 982.310), except that:

○ The owner may terminate the tenancy effective on the date of the transfer to the owner if the owner:

■ Will occupy the unit as a primary residence; and

■ Has provided the tenant with a notice to vacate at least 90 days before the effective date of such notice.

C. Public Housing Agencies (PHAs)

With respect to PHAs, a PHA, after foreclosure, provides payments under the HAP contract to the new owner for the remaining term of the HAP contract, subject to the exception for an owner who will occupy the unit as a primary residence. In the case of the owner/occupant, the HAP contract would continue for the required notice period. The new owner also takes subject to the existing lease, which can only be terminated as described in this section.

The Office of Public and Indian Housing will be providing additional guidance as PHAs may need to help ensure that the requirements of Section 703 are carried out where applicable.

IV. Additional Guidance

As noted earlier in this notice, HUD will provide additional guidance as may be necessary to help ensure that the requirements of Sections 702 and 703.

Dated: June 18, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. E9–14909 Filed 6–23–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation and are new, modified, discontinued, or completed since the last publication of this notice on April 10, 2009. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. In addition, notice is hereby given of contractual actions for extraordinary maintenance and replacement pursuant to the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5). Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Water and Environmental Resources Office, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Pursuant to section 9(f) of the Reclamation Project Act of 1939 and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22). Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area prior to contract execution. In addition, Reclamation may publish notice of proposed contractual actions for extraordinary maintenance and replacement pursuant to the ARRA. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.
2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.
3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.
4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.
5. All written comments received and testimony presented at any public

hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Frequently Used in This Document

ARRA	American Recovery and Reinvestment Act of 2009.
BCP	Boulder Canyon Project.
Reclamation	Bureau of Reclamation.
CAP	Central Arizona Project.
CVP	Central Valley Project.
CRSP	Colorado River Storage Project.
FR	Federal Register.
IDD	Irrigation and Drainage District.
ID	Irrigation District.
M&I	Municipal and Industrial.
NMISC	New Mexico Interstate Stream Commission.
O&M	Operation and Maintenance.
P-SMBP	Pick-Sloan Missouri Basin Program.
PPR	Present Perfected Right.
RRA	Reclamation Reform Act of 1982.
SOD	Safety of Dams.
SRPA	Small Reclamation Projects Act of 1956.
USACE	U.S. Army Corps of Engineers.
WD	Water District.

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New Contract Actions

14. Willow Creek Group, Willow Creek Project Oregon: Irrigation water service contract for up to 2,500 acre-feet of project water.

15. Water user entities responsible for payment of operation and maintenance costs for Reclamation projects in Idaho, Montana, Oregon, Washington, and Wyoming: Contracts for extraordinary maintenance and replacement funded pursuant to the ARRA.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New Contract Action

38. Water user entities responsible for payment of operation and maintenance costs for Reclamation projects in California, Nevada, and Oregon: Contracts for extraordinary maintenance and replacement funded pursuant to the ARRA.

Modified Contract Action

36. County of Tulare, CVP, California: Proposed assignment of County of Tulare's Cross Valley Canal water supply in the amount of 5,308 acre-feet to its various subcontractors. Water will be used for both irrigation and M&I purposes.

Lower Colorado Region: Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

New Contract Actions

14. White Mountain Apache Tribe, Miner Flat Project, Arizona: Execution of a contract to repay any amounts loaned to the Tribe pursuant to Section 3 of Public Law 110–390.

15. Queen Creek Water Company, CAP, Arizona: Assignment of Queen Creek Water Company's 348 acre-feet entitlement to the Town of Queen Creek, per Queen Creek Water Company's request and as recommended by the Arizona Department of Water Resources.

16. Gila Monster Farms, Inc., BCP, Arizona: Request for partial assignment and transfer of third-priority water entitlement for domestic use to Aursa, AZ I, LLC.

17. Gila Monster Farms, Inc., BCP, Arizona: Amend contract to decrease Gila Monster Farms' third-priority water entitlement.

18. Aursa, AZ I, LLC, BCP, Arizona: Enter into a new Section 5 contract with Aursa for 2,126 acre-feet per year of third-priority water being assigned to Aursa from Gila Monster Farms.

19. Arizona State Lands Department, BCP, Arizona: Amend contract No. 4–07–30–W0317 to decrease the Department's fourth-priority agricultural water entitlement that is being assigned to the Department's fourth-priority domestic water entitlement contract No. 7–07–30–W0358 to change the type of use from agricultural to domestic use.

20. Arizona State Lands Department, BCP, Arizona: Amend the Department's contract No. 7–07–30–W0358 to increase the Department's fourth-priority water entitlement for domestic use.

21. Water user entities responsible for payment of operation and maintenance costs for Reclamation projects in Arizona, California, Nevada, and Utah: Contracts for extraordinary maintenance and replacement funded pursuant to the ARRA.

Completed Contract Actions

4. Shepard Water Company, Inc., BCP, Arizona: Contract for the annual diversion of up to 50 acre-feet of Colorado River water, as recommended by the Arizona Department of Water Resources. Contract was executed January 30, 2009.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New Contract Actions

1.(e) Horse Meadows Home Owners Association, Aspinall Unit, CRSP: The Association has requested a 40-year water service contract for 1 acre-foot of M&I water out of the Blue Mesa Reservoir, which requires them to present a Plan of Augmentation to the Division 4 Water Court.

1.(f) David Beaulieu, Aspinall Storage Unit, CRSP: Mr. Beaulieu has requested a 40-year water service contract for 1 acre-foot of M&I water out of the Blue Mesa reservoir, which requires Mr. Beaulieu to present a Plan of Augmentation to the Division 4 Water Court.

31. City of Santa Fe and Reclamation: Contract to store up to 50,000 acre-feet of San Juan-Chama Project Water in Elephant Butte Reservoir for a 40-year maximum term.

32. Water user entities responsible for payment of operation and maintenance costs for Reclamation projects in Arizona, Colorado, New Mexico, Texas, Utah, and Wyoming: Contracts for extraordinary maintenance and replacement funded pursuant to the ARRA.

Discontinued Contract Actions

1.(b) Mike and Marsha Jackson, Aspinall Storage Unit, CRSP: The Jacksons have requested a 40-year water service contract for 1 acre-foot of M&I water out of the Blue Mesa Reservoir, which requires the Jacksons to present a Plan of Augmentation to the Division 4 Water Court.

29. Horse Meadows Home Owners Association, Aspinall Unit, CRSP: The Association has requested a 40-year water service contract for 1 acre-foot of M&I water out of the Blue Mesa Reservoir, which requires them to present a Plan of Augmentation to the Division 4 Water Court.

Great Plains Region: Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59101, telephone 406–247–7752.

New Contract Actions

40. Pryor Creek Land and Development Company, Huntley Project, Montana: Request for a long-term water service contract for M&I purposes for up to 200 acre-feet of water per year.

41. Grandview Cemetery Association of Saco, Milk River Project, Montana: Contract renewal for long-term water service for up to 14 acre-feet of water per year.

42. Individual contractors; Canyon Ferry Unit, P–SMBP; Montana: Replace temporary 1-year contracts with short-term water service contracts for minor amounts of less than 1,000 acre-feet of M&I water annually from the Missouri River, Canyon Ferry Dam.

43. Keyhole Country Club; Keyhole Unit, P–SMBP; South Dakota: Reclamation is contemplating a contract reassignment from the Shattuck Hills Homeowner's Association to the Keyhole Country Club. The proposed action will involve a change in the point of delivery for the 50 acre-feet of water under the existing contract.

44. Water user entities responsible for payment of operation and maintenance costs for Reclamation projects in Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Contracts for extraordinary maintenance and replacement funded pursuant to the ARRA.

Completed Contract Actions

20. Colorado River Water Conservation District, Colorado-Big Thompson Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity for storage and exchange in Green Mountain Reservoir in the Colorado-Big Thompson Project. Contract was executed March 11, 2009.

25. City of Beloit, P–SMBP, Kansas: Contract renewal for M&I contract. Contract was executed January 29, 2009.

35. City of Cheyenne, Kendrick Project, Wyoming: The City of Cheyenne has requested an amendment to its water storage contract to increase the storage entitlement to 15,700 acre-feet of storage space in Seminoe Reservoir. Contract was executed February 27, 2009.

Dated: May 8, 2009.

Roseann Gonzales,

Director, Policy and Program Services, Denver Office.

[FR Doc. E9–14823 Filed 6–23–09; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–09–018]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 29, 2009 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–421–7 (Remedy) (Certain Passenger Vehicle and Light Truck Tires from China)—briefing and vote. (The Commission is currently scheduled to transmit its report containing its determination, proposed recommendations on remedy, and views of the Commissioners to the President and the United States Trade Representative by July 9, 2009.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: June 22, 2009.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9–14968 Filed 6–22–09; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Toxic Substances Control Act

Notice is hereby given that on June 16, 2009 a proposed Consent Decree in *United States* v. *Wallside, Inc.,* Civil Action No. 2:09–12317–AC–DAS, was lodged with the United States District Court for the Eastern District of Michigan. The consent decree settles claims against a window manufacturing and replacement corporation located outside of Detroit, Michigan. The claims were brought on behalf of the Environmental Protection Agency (''U.S. EPA'') under the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.,* and on behalf of the State of Michigan Department of Community Health (''Michigan DCH'') under the Michigan Lead Abatement Act, 1998 Mich. Pub. Acts 219 1 *et seq.,* Mich. Comp. Laws Ann. 333.5451 *et seq.* The Plaintiffs allege in the complaint that the Settling Defendant failed to make one or more of the disclosures or to complete one or more of the disclosure activities required by Title IV, 406(b) of the Toxic Substances Control Act.

Under the Consent Decree, the Settling Defendant will pay a civil penalty of $100,000 and will certify that it is now in compliance and will continue to comply with residential lead based paint hazard notification requirements. The Settling Defendant will also perform two Supplemental Environmental Projects (''SEPs''). For one SEP the Settling Defendant will provide $350,000 worth of windows to the State of Michigan for installation in housing built before 1978. For the other SEP, the Settling Defendant will voluntarily employ lead safe work practices in advance of being subject to Federal regulations which will become effective in April of 2010 imposing similar lead safe work practices requirements on all renovators of pre-1978 properties.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to U.S. Department of Justice, Washington, DC 20044–7611 P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Wallside, Inc.,* D.J. Ref. # 90–5–1–1–08899.

The Proposed Consent Decree may be examined at the office of the United States Attorney for the Eastern District of Michigan, 211 Fort Street, Suite 2001, Detroit, MI 48226 (Attn. Assistant United States Attorney Carolyn Bell-Harbin); and at U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *available at http://*

www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation no. (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $11.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–14867 Filed 6–23–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on April 21, 2009, AllTech Associates Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to import these controlled substances for the manufacture of reference standards.

Any manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152 and must be filed no later than July 24, 2009.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: June 15, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–14727 Filed 6–23–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,653]

Munson Machinery Company, Utica, NY; Notice of Revised Determination on Reconsideration of Alternative Trade Adjustment Assistance

By letter dated June 2, 2009, a petitioner requested administrative reconsideration regarding Alternative Trade Adjustment Assistance (ATAA) applicable to workers of the subject firm. The negative determination was signed on May 14, 2009. The notice of negative determination for ATAA will soon be published in the **Federal Register**.

The workers of Munson Machinery Company, Utica, New York were certified eligible to apply for Trade Adjustment Assistance (TAA) on May 14, 2009.

The initial ATAA investigation determined that workers of the workers' firm possess skills that are easily transferrable.

In the request for reconsideration, the petitioner provided additional information regarding the skills of the workers and that the skills of the workers employed at the subject firm are not easily transferrable to other businesses within the local commuting area. The company official provided sufficient information confirming this statement.

Additional investigation has determined that the workers possess skills that are not easily transferable and that the conditions within the industry are adverse. A significant number or proportion of the worker group is age fifty years or over.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that the requirements of Section 246 of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following revised determination:

All workers of Munson Machinery Company, Utica, New York, who became totally or partially separated from employment on or after March 11, 2008 through May 14, 2011, are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 16th day of June, 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14762 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,401]

Qimonda 200 MM Facility, Including On-Site Leased Workers From Tokyo Electron America, Nikon Precision, Inc., Ebara Technologies, Inc., Air Products and Chemicals, Inc., PSI Repair Services, Exel Logistics, Xperts, Inc. and Kla-Tencor and Qimonda North America Corporation, Qimonda Richmond, a Subsidiary of Qimonda AG, Sandston, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 11, 2008, applicable to workers of Qimonda 200MM Facility, Sandston, Virginia. The notice was published in the **Federal Register** on December 30, 2008 (73 FR 79914). The certification was amended on February 10, 2009, March 3, 2009 and March 31, 2009 to include on-site leased workers of Tokyo Electron America, Nikon Precision, Ebara Technologies and Air Products and Chemicals, Inc. and Qimonda North America Corp., Qimonda Richmond, an on-site subsidiary of the subject firm. These notices were published in the **Federal Register** on February 23, 2009 (74 FR 8111), March 11, 2009 (74 FR 10619) and April 7, 2009 (74 FR 15752) 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 DRAM semiconductor wafers.

The company reports that workers leased from PSI Repair Services, Exel Logistics, Xperts, Inc. and KLA/Tencor were employed on-site at the Sandston, Virginia location of Qimonda 200MM Facility. The Department has determined that these workers were sufficiently under the control of Qimonda 200MM Facility to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from PSI Repair Services, Exel Logistics, Xperts, Inc. and KLA/Tencor working on-site at the Sandston, Virginia location of the subject firm.

The intent of the Department's certification to include all workers employed at Qimonda 200MM Facility, Sandston, Virginia who were adversely affected by a shift in production to a foreign country followed by increased imports of articles like or directly competitive with DRAM semiconductor wafers produced by the subject firm.

The amended notice applicable to TA–W–64,401 is hereby issued as follows:

All workers of Qimonda 200MM Facility, including on-site leased workers from Tokyo Electron America, Nikon Precision, Inc., Ebara Technologies, Inc., Air Products and Chemicals, Inc., PSI Repair Services, Exel Logistics, Xperts, Inc., and KLA–Tensor and including on-site workers of Qimonda North America Corp., Qimonda Richmond, a subsidiary of Qimonda AG, Sandston, Virginia, who became totally or partially separated from employment on or after November 11, 2007 through December 11, 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 June 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14763 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,647]

Trane US, Inc., Residential Systems Division, Including On-Site Leased Workers From Remedy Intelligent Staffing, Tyler, TX; Determination Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

On May 1, 2009, the Department issued an Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on May 18, 2009 (74 FR 23216).

The previous investigation initiated on December 11, 2008, resulted in a negative determination issued on February 13, 2009, was based on the finding that imports of air conditioning units did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on March 3, 2009 (74 FR 9279).

To support the request for reconsideration, the petitioner supplied additional information and alleged that the workers of the subject firm also manufactured components for air conditioning units and that the subject firm shifted production of these components to Mexico during the relevant period.

The Department contacted a company official of the subject firm to address this allegation. Upon further investigation, it was revealed that the workers of the subject firm did manufacture one- and two-cylinder reciprocating compressors and crankshafts during the relevant period. These workers were separately identifiable from other workers at the subject firm. The investigation also revealed that the subject firm shifted production of one- and two-cylinder reciprocating compressors and crankshafts to Mexico impacting workers engaged in the production of one- and two-cycle reciprocating compressors and crankshafts during the relevant period.

The petitioner also alleged that the subject firm is transferring the wiring department to Mexico in 2009.

The company official of the subject firm confirmed that Trane US, Inc. is considering a transfer of the wiring department to Mexico and that this transfer is currently in the planning process.

When assessing eligibility for TAA, the Department exclusively considers shifts in production which occur during the relevant time period (one year prior to the date of the petition). Events occurring in the future are outside of the relevant period and thus cannot be considered in this investigation.

Should conditions change in the future, the petitioner is encouraged to file a new petition on behalf of the worker group which will encompass an investigative period that will include these changing conditions.

The petitioner further alleged that the subject firm shifted production of gear drive centrifugal water chillers to China.

The company official stated that the workers of the subject firm did not manufacture gear drive centrifugal water chillers during the relevant period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met for the workers engaged in production of one- and two-cylinder reciprocating compressors.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I determine that there was a shift in production of one- and two-cylinder reciprocating compressors and crankshafts from the workers' firm or subdivision to Mexico. In accordance with the provisions of the Act, I make the following certification:

''Workers of Trane US, Inc., Residential Systems Division, including on-site leased workers from Remedy Intelligent Staffing, Tyler, Texas, engaged in production of one- and two-cylinder reciprocating compressors and crankshafts, who became totally or partially separated from employment on or after December 10, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

I also determine that workers of Trane US, Inc., Residential Systems Division, Tyler, Texas, excluding workers engaged in production of one- and two-cylinder reciprocating compressors and crankshafts, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 18th day of June 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14764 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,139]

Weather Shield Manufacturing, Inc., Custom Products Division, Medford, WI; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked May 15, 2009, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 30, 2009 and published in the **Federal Register** on May 18, 2009 (74 FR 23214).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination which was based on the finding that imports of windows and doors did not contribute importantly to worker separations at the subject plant and there was no shift of production to a foreign country in the relevant period. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's declining domestic customers. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of windows and doors in 2007, 2008 and January through February 2009. The survey revealed no imports during the relevant period. The subject firm did not import windows and doors into the United States during the relevant period.

In the request for reconsideration, the petitioner stated that in order to reveal the import impact, the Department should change the relevant period and include events occurring in 2006.

When assessing eligibility for TAA, the Department exclusively considers import impact during the relevant time period (one year prior to the date of the petition). Therefore, events occurring in 2006 are outside of this period and are not relevant in this investigation.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 12th day of June, 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14766 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,665; TA–W–64,665A]

Alcoa Howmet Castings, a Subsidiary of Alcoa, Incorporated, Thermatech Coatings and Titanium Ingot Division, Plant #4; Whitehall, MI; Alcoa Howmet Castings, a Subsidiary of Alcoa, Incorporated, Plant #5, Whitehall, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 11, 2009, the United Automobile, Aerospace and Agricultural Implement Workers of America, Local 1243 (UAW) requested administrative reconsideration of the Department's Negative Determination regarding eligibility for workers and former workers of Alcoa Howmet Castings, a subsidiary of Alcoa, Inc., Thermatech Coatings and Titanium Ingot Division, Plant #4, Whitehall, Michigan, and Alcoa Howmet Castings, a subsidiary of Alcoa, Inc., Plant #5, Whitehall, Michigan, to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). Workers at Plant #4 produce environmental coatings and titanium ingots, and are separately identifiable by product; workers at Plant

#5 produce titanium castings, pattern wax, casting crucibles, and HIP (hot isostatic pressing), and are not separately identifiable by product.

The Department's determination was issued on April 24, 2009. The Department's Notice of Negative determination was published in the **Federal Register** on May 7, 2009 (74 FR 21407).

The determination stated that, with regards to Plant #4, criterion (a)(2)(A)(I.B.) was not met because sales and production of environmental coatings increased during the relevant period; criterion (a)(2)(B) was not met because the subject firm's production of environmental coatings did not shift to a foreign country during the relevant period; criterion (a)(2)(A)(I.C.) was not met because increased imports of titanium ingot did not contribute importantly to the workers' separations and subject firm sales and/or production declines of titanium ingot; and criterion (a)(2)(B) was not met because the subject firm's production of titanium ingot did not shift to a foreign country during the relevant period.

The determination stated that, with regards to Plant #5, criterion (a)(2)(A)(I.C.) was not met because increased imports of titanium castings, pattern wax, casting crucibles, or HIP processing did not contribute importantly to the workers' separations and subject firm sales and/or production declines of titanium castings, pattern wax, casting crucibles, or HIP processing and criterion (a)(2)(B) was not met because the subject firms' production of titanium castings, pattern wax, casting crucibles, or HIP processing did not shift to a foreign country during the relevant period.

In the request for reconsideration, the UAW representative stated that ''sales will continue to decline * * * which supports (a)(2)(A)(I.B.) * * *''

The UAW representative's allegation that (a)(2)(A)(I.B.) was met (sales and/or production declined during the relevant period) is relevant to Plant #4 but is not relevant to Plant #5 because the Department determined that there were sales and/or production declines at Plant #5 during the relevant period. Therefore, the Department's review of the request for reconsideration is limited to sales and production of environmental coatings at Plant #4.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

After careful review of the request for reconsideration and previously submitted materials, the Department determines that there is no new information that supports a finding that Section 222 of the Trade Act of 1974 was satisfied and that no mistake or misinterpretation of the facts or of the law with regards to the number or proportion of workers separated from the subject firm during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 12th day of June 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14765 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

American Recovery and Reinvestment Act (ARRA); Notice of Availability of Funds and Solicitation for Grant Applications for State Energy Sector Partnership (SESP) and Training Grants

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY–08–20.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.275.

DATES: The closing date for receipt of applications under this announcement is October 20, 2009. Applications must be received at the address below no later than 4 p.m. (Eastern Time). A pre-recorded Webinar will be available online at: *http://www.workforce3one.org* and accessible for viewing by 3 p.m. ET on July 10, 2009, and will be available for viewing any time after that date as well. While a review of this webinar is encouraged, it is not mandatory.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment & Training Administration, Division of Federal Assistance, Attention: B. Jai Johnson, Grant Officer, Reference SGA/DFA PY–08–20, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. For complete ''Application and Submission Information,'' please refer to section IV.

SUMMARY: Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act), the U.S. Department of Labor (DOL or the Department) Employment and Training Administration (ETA) announces the availability of approximately $190 million in grant funds to State Workforce Investment Boards of the 50 States, the District of Columbia, and the U.S. territories as defined in section VI.B.2.iv. In order to highlight the important role States play in building a national green economy, the Department is investing in workforce sector strategies that target energy efficiency and renewable energy industries described in section 171(e)(1)(B) of the Workforce Investment Act of 1998 (WIA) and other green industries. DOL encourages a strategic planning process that aligns the Governor's overall workforce vision, State energy policies, and local and regional training activities that lead to employment in targeted industry sectors. This strategic planning process is an opportunity to develop a statewide energy sector strategy through a comprehensive partnership and development of a Sector Plan. If an energy sector strategy is currently in place, that strategy should be reviewed and evaluated to address the requirements of this funding opportunity. As a result of this Solicitation for Grant Application (SGA), the Department is fostering the development of a national workforce that is ready to meet the demands of the energy efficiency and renewable energy industries and other industries identified in Supplementary Information, section B of this SGA.

A portion of the funds under this SGA will be reserved for communities or regions undergoing auto industry related restructurings. The eligible applicants for this SGA are State Workforce Investment Boards in partnership with their State Workforce Agency, local Workforce Investment Boards or regional consortia of Boards, and One Stop Career Center delivery systems. ETA intends to fund grants ranging from approximately $2 to $6 million.

SUPPLEMENTARY INFORMATION:

A. Recovery Act: Competitive Grants for Green Job Training

This section of the SGA provides general background on the American Recovery and Reinvestment Act of 2009 (Recovery Act), the competitive grants funded through the Recovery Act to prepare workers for careers in the energy efficiency and renewable energy industries, and the occupations and industries on which these grants should focus. On February 17, 2009, President Barack Obama signed into law the Recovery Act through which Congress intended to preserve and create jobs, promote the nation's economic recovery, and assist those most impacted by the recession. Among other funding directed toward the Department the Recovery Act provides $750 million for a program of competitive grants for worker training and placement in high growth and emerging industries. Of the $750 million allotted for competitive grants, the Recovery Act designates approximately $500 million for research, labor exchange and job training for projects that prepare workers for careers in energy efficiency and renewable energy as described in section 171(e)(1)(B) of the Workforce Investment Act (WIA). DOL intends to use a portion of the $500 million for providing technical assistance for this program of grants.

The purpose of these green job training grants is to teach workers the skills required in emerging energy efficiency and renewable energy industries. These efforts will lead program participants to job placement while leveraging other Recovery Act investments intended to create jobs and promote economic growth. For additional information about the series of competitive grants for green job training, please refer to Training and Employment Notice (TEN) 44–08 available at *http://www.doleta.gov/Recovery/legislation.cfm*.

B. Green Industries and Occupations

The Department will award grants to workforce development projects that focus on connecting target populations, including auto and auto-related industry workers affected by significant automotive-related restructurings, to career pathways in green industries. Training programs will prepare individuals for careers in any of the seven energy efficiency and renewable energy industries defined in section 171(e)(1)(B)(ii) of the WIA, which include:

- The energy-efficient building, construction, and retrofit industries;
- The renewable electric power industry;
- The energy efficient and advanced drive train vehicle industry;
- The biofuels industry;
- The deconstruction and materials use industries;
- The energy efficiency assessment industry serving residential, commercial, or industrial sectors; and
- Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

Additionally, the Department is interested in applicants contributing to our understanding of green industries and jobs that clean and enhance our environment. Initial research supported by the Department of Labor shows that there are ''growth, enhanced and emerging'' green occupations across a number of industries. In addition to the seven industries referenced above, applicants may propose strategies that train for those green occupations from among the following industries: Transportation; green construction; environmental protection; sustainable agriculture including healthy food production; forestry; and recycling and waste reduction (see Occupational Information Network Report at: *http://www.onetcenter.org/reports/Green.html*). The Department will consider proposals that focus on these occupations within these industries if applicants can offer supporting data demonstrating these are emerging industries which are producing jobs in their communities.

For the purpose of these SGAs, the Department defines energy efficiency and renewable energy as follows. Section 203(b)(2) of the Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 595, defines ''renewable energy'' as ''electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.'' ''Energy efficiency'' can be broadly defined as programs aimed at mitigating the use of energy, reducing harmful emissions, and decreasing overall energy consumption.

The Department of Labor's Bureau of Labor Statistics (BLS) is working to develop a definition for green sectors and jobs, which will be used to ensure that workforce development efforts identify and target these green jobs and their training needs. The Department has also supported occupational research that begins to define green jobs, review sectors impacted by green investments and understand how new green technology and materials will affect occupational requirements. The Occupational Information Network (O*NET) project has drafted a research paper titled, *Greening of the World of Work: Implications for O*NET–SOC and New and Emerging Occupations.* This study reflects three general categories of occupations, based on different consequences of green economy activities and technologies: (1) Existing occupations expected to experience primarily an increase in employment demand; (2) existing occupations with significant change to the work and worker requirements; and (3) new and emerging green occupations. This research may be used as a starting point for identifying green industries and occupations and informing the development of training and job placement programs. For a copy of the O*NET report and a listing of the identified occupations go to *http://www.onetcenter.org/reports/Green.html*

C. Working With Other Recovery Act Programs

The Recovery Act made funds available to a number of other Federal programs that will impact the creation and expansion of green jobs. DOL is partnering with other Federal agencies to support the creation of jobs by developing a pipeline of skilled workers in the energy efficiency and renewable energy industries. Where possible, ETA encourages applicants to connect their workforce development strategies to other Recovery Act funded projects that create jobs or impact the skill requirements of existing jobs. ETA recommends that applicants review other parts of the Recovery Act, with a focus on the activities funded through the Department of Energy (Energy), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the Department of Education (Education) and others. For additional resources and information about our Federal partners, please see section VIII, ''Additional Resources of Interest to Applicants.''

I. Funding Opportunity Description

Grant funds awarded under this SGA will be used to provide training, job placement, and related activities that reflect a comprehensive statewide energy sector strategy including the Governor's overall workforce vision, State energy policies, and training activities that lead to employment in targeted industry sectors. A sector

strategy is a workforce development approach that targets the needs of a specific industry sector. According to The Aspen Institute's Workforce Strategies Initiative, the primary purpose of a sector strategy is to provide an integrated system of education, training, and supportive services that promotes skill attainment and career pathway development for workers. Sector strategies are designed and implemented by a range of institutions and groups working collaboratively, including community and faith-based organizations, business and industry groups, educational institutions such as community and technical colleges, the public workforce system, labor-management partnerships, and others.

Many sector initiatives provide strategies for improving the employability and career pathway development for low-income, low-skilled workers, but sector strategies can also benefit other populations, such as incumbent workers in need of skill upgrades, or laid-off workers who need to develop sector-specific skills. Some strategies focus on just one target industry in a specific geographical region, while others encompass several related industries. The end result of a sector strategy is a stronger labor market system that benefits workers and employers for years to come. Additional information about sector strategies can be accessed at *http://www.aspenwsi.org/WSIsector-index.asp.* In recent years, a number of States and their local Workforce Investment Boards and One Stop Career Center delivery systems have successfully implemented a variety of sectoral approaches that examine labor market trends, develop an understanding of specific industry sector workforce needs, and promote training that responds to those immediate employer needs within the identified sectors.

A. Preparing To Apply for This Solicitation: Strategic Planning Process, Roles of the State Workforce Investment Board, and Formation of the State Energy Sector Partnership

The Department strongly encourages applicants to engage in a comprehensive strategic planning process prior to submitting an application for this SGA. If the State has completed a similar strategic planning process including the development of a sector plan related to the targeted industries outlined in this SGA, that process should be reviewed and evaluated to ensure it meets the requirements of this funding opportunity. If the State has not engaged in a comprehensive strategic planning process, then this work will serve as the foundation for the technical proposal for the SGA. If awarded, all applicants will be expected to fully implement the local and regional training projects outlined in the Sector Plan that was submitted as part of their application. Applicants should be aware they may not charge any strategic planning or other pre-award activities to the grant.

1. Strategic Planning Process

A Sector Plan should be developed using an inclusive process designed by the State Workforce Investment Board as the grant recipient. DOL expects State Workforce Agencies, local WIBs or regional consortia of WIBs and One Stop Career Center delivery systems, as well as required and suggested partners to have a strong voice and integral role in the strategic planning process.

In order to effectively engage in planning and fulfill the requirements of this SGA, DOL suggests that the strategic planning sessions encompass the following:

i. Review and analyze the Governor's overall workforce vision and goals, energy policy and, if available, specific policies for energy efficiency and renewable energy industries;

ii. Establish the State strategic vision and goals for preparing an educated and skilled workforce to meet the current and emerging needs of the energy efficiency and renewable energy industries, and aligning those efforts with overall workforce development, education, and economic development;

iii. Analyze and determine the sectors where investments are or will be made and the occupations and skill needs within the energy efficiency and renewable energy industries that will be targeted;

iv. Analyze and determine the populations that will be targeted, the characteristics of those populations that have specific workforce challenges or could benefit from specific sector strategies, and training activities that address the needs and demands of those targeted sectors and target populations; and

v. Develop an energy sector strategy for training workers in the energy efficiency and renewable energy industries, and propose training activities that lead to employment in targeted industry sectors. The strategy should include delivery of training services through local and regional project teams, led by local WIBs or regional consortia of Boards and their One Stop Career Center delivery systems, along with appropriate partners that will deliver training. This includes a plan for how funds will be distributed to those project teams that aligns with the State's vision and strategies.

2. Roles of the State Workforce Investment Board (SWIB or the Board)

If awarded a grant, the SWIB will (1) lead the State Energy Sector Partnership and serve as the project operator responsible for coordinating and managing this Partnership, and (2) manage the overall planning, implementation, oversight, and technical assistance of the State Energy Sector Plan operations, which also includes managing the local and regional project teams. While performing this role, the Board ensures that the work of the State Energy Sector Partnership is aligned with the Governor's vision and relevant national and State energy policies, as well as the Workforce Investment Act/Wagner-Peyser Act State Plan. It is expected the Board will establish a process to regularly coordinate with the local and regional project teams to ensure timely implementation, address program and/or fiscal challenges, meet technical assistance needs, and ensure the project teams are meeting their performance outcomes and deliverables.

3. Formation of a State Energy Sector Partnership (SESP)

The SESP will serve as a steering committee throughout the life of the grant to inform the planning and implementation of the State's energy sector strategy and ensure the overall success of the grant.

i. SESP Membership. The SWIB will determine and coordinate membership of the SESP, which will reflect the State's targeted industries as referenced in Supplementary Information, section B of this SGA. State Workforce Investment Boards may already have existing relationships with the required partners and suggested partners mentioned below through their Board representation and should invite those individuals to serve on the SESP, as appropriate. To be able to effectively develop and implement industry training strategies across the State, individuals serving on the SESP should be senior level and have decision-making authority over their organization's activities and resources. In forming the SESP, the State Workforce Investment Board is encouraged to continue strengthening and expanding their existing partnerships, as well as identify and address any gaps among the required and suggested partner organizations outlined below.

Applicants must assemble a comprehensive and representative

partnership reflecting the energy efficiency and renewable energy industries within the State. The SESP is made up of representatives from the State Workforce Agency, local WIBs or regional consortia of WIBs and One Stop Career Center delivery systems, and at least one representative from each of the following required categories:

- State Cabinet officials from agencies (*e.g.,* State Energy Office) receiving Recovery Act funding related to relevant energy efficiency and renewable energy resources and other green occupations and industries in the State;
- Representatives from the energy efficiency and renewable energy business and industries, such as public, private, or non-profit employers;
- Labor organizations, including labor-management training programs.

The SESP is encouraged to include additional members from each of the following categories:

- State Apprenticeship Agencies (SAAs) or the USDOL Office of Apprenticeship (OA) in states where OA is the registration agency for registered apprenticeship programs;
- Nonprofit organizations including community and faith-based organizations;
- The education and training community, which includes the continuum of education at all levels from secondary schools to community and technical colleges, four-year colleges and universities, apprenticeship programs, technical and vocational training institutions, and other training entities;
- State and Local veterans' agencies and local veterans service organizations; and
- Economic Development organizations.

By including all of these types of categories in a robust partnership, applicants will ensure they are maximizing the expertise of each organization.

ii. Activities of the State Energy Sector Partnership (SESP). There are two primary activities for SESP members: (1) Strategic planning and development of a Sector Plan, including selecting local and regional project teams, which the applicant will describe in the technical proposal and (2) oversight of the implementation and successful operation of the State Energy Sector Plan. The Board may choose to expand the roles of the SESP beyond these two activities to enhance the operations of the local and regional project teams.

iii. Roles of the Local and Regional Project Teams. The SESP will select local WIBs or regional consortia of WIBs and their One Stop Career Center delivery systems, and other partners, as appropriate to serve as project teams. The purpose of these teams is to identify, assess, and refer candidates for training, and connect and place workers with employers that have existing job openings. Each project team is expected to identify appropriate training providers that have the capacity to begin training expeditiously upon award and effectively train a substantial number of participants. In addition, each project team must identify a lead staff member, or co-leads to ensure coordination and strategic problem solving among the training providers to best meet participant long/short term employment and training needs. Project Team leads or co-leads should have experience in successfully operating a variety of grant programs on a small and large scale.

Local and regional project teams are strongly encouraged to develop and/or strengthen relationships with the various partner organizations referenced above (''State Energy Sector Partnership (SESP) Membership'') in their local and regional areas as appropriate, in order to effectively support these activities. Local and regional project teams funded through this SGA must implement comprehensive projects that include: (a) Robust recruitment strategies; (b) seamless integration of supportive service strategies where necessary to help the targeted individuals succeed; (c) use of the One Stop Career Center delivery system to provide case management; (d) high-quality training that leads to a degree or certificate, as appropriate. Training should use methods such as on-the-job training blended with classroom training, customized training with an existing registered apprenticeship program or labor-management partnership, technology-based learning, or other appropriate training strategies. In addition, training courses should be offered at alternate times (such as evening and weekend programs) and in locations that are most convenient and accessible to participants; and (e) follow-up and retention services, providing individuals the resources necessary to attain economic self-sufficiency.

II. Award Information

A. Award Amount

Approximately $190 million is available under this competitive SGA. The expected range of awards is $2 to $6 million. Applications requesting more than $6 million will be considered nonresponsive. Within these funding ranges specified above, applicants are encouraged to submit proposals for quality projects at whatever funding level is appropriate to the project.

Approximately $25 million of the total funds available through this SGA will be reserved for projects in communities impacted by automotive-related restructuring, though the Department reserves the right to change this amount depending on the quantity and quality of applications submitted under this SGA. See Attachment I for a list of counties impacted by automotive-related restructuring. The Center for Automotive Research identified the attached list of 281 U.S. counties that have either an automotive assembly plant or parts manufacturer employing regional residents.

B. Period of Performance

The period of grant performance will be up to 36 months from the date of execution of the grant document and it includes participant follow-up. The Department expects grant funded activities to commence upon grant award. Applicants should plan to fully expend grant funds during the period of performance, while ensuring full transparency and accountability for all expenditures.

III. Eligibility Information

A. Eligible Applicants and Required Partnerships

Eligible applicants are limited to State Workforce Investment Boards and only one application may be submitted per State. For the purposes of this SGA, the term ''State'' means each of the 50 States of the United States, the District of Columbia, and the U.S. territories as defined in Section VI.B.2.iv. In order to be eligible, SWIBs must demonstrate they are in partnership with the State Workforce Agency, local Workforce Investment Boards or regional consortia of Boards, and One Stop Career Center delivery systems. If the SWIB does not have the capacity to serve as the fiscal agent, the State Workforce Agency must be designated as the fiscal agent for the grant and should be designated as the applicant on the SF 424 Grant Application.

B. Cost Sharing

Cost sharing or matching funds are not required as a condition for application, but leveraged resources are strongly encouraged and may affect the applicant's score in section V.A.2 of the evaluation criteria.

C. Proposed Projects

The purpose of this SGA is to fund training projects that will prepare and place individuals into any of the seven

energy efficiency and renewable energy industries as referenced in Supplementary Information, section B of this SGA. Training costs that are directly related to the provision of training for participants may include the following: Faculty/instructors, including salaries and fringe benefits; in-house training staff; support staff such as lab or teaching assistants; classroom space, including laboratories, mock-ups or other facilities used for training purposes; classroom-supported internship programs; and books, materials, and supplies used in the training course, including specialized equipment.

Applicants are not limited in the specific training and placement strategies and activities they may utilize. However, all activities must lead to placement in employment and must: (a) Teach skills and competencies demanded by the targeted sector(s); and (b) support participants' long term career growth along a defined career pathway such as an articulated career ladder and/or lattice, if such a pathway exists in the targeted sector. The degree or certificate awarded to participants should be based on the type of training provided through the grant and the requirements of the targeted occupation, and should be selected based on consultations with industry partners (see section VI.2.i.)

Some grants funded under this SGA may produce tangible deliverables, such as curriculum, training modules, and outreach materials. Applicants proposing the development of curriculum must provide a detailed description that outlines the specific curriculum that will be developed, and articulates the need to develop a new curriculum, as opposed to using or adapting existing curricula.

D. Other Grant Specifications

1. Participants Eligible to Receive Training

Projects must give priority for training and other services provided through the grant to the following target populations.

i. Workers impacted by national energy and environmental policy;

ii. Individuals in need of updated training related to the energy efficiency and renewable energy industries;

iii. Veterans, or past and present members of reserve components of the Armed Forces;

iv. Unemployed individuals;

v. Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency; and

vi. Individuals with a criminal record

Other individuals, such as untapped labor pools and entry-level and incumbent workers that do not fit into the categories above, may also be served through these projects. For specific definitions of these target populations, applicants must refer to section VI.B of this SGA.

2. Veterans Priority

The Jobs for Veterans Act (Pub. L. 107–288) provides priority of service to 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 DOL. Grantees are required to provide priority of services for veterans and eligible spouses pursuant to 20 CFR part 1010, the regulations implementing priority of service for veterans and eligible spouses in Department of Labor job training programs under the Jobs for Veterans Act published at 73 FR 78132 on December 19, 2008. In circumstances where a grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that grant recipients give the veteran priority of service by admitting him or her into the program. Please note that to obtain priority of service a veteran must meet the program's eligibility requirements. Grantees must comply with DOL guidance on veterans' priority. Currently, ETA Training and Employment Guidance Letter (TEGL) No. 05–03 (September 16, 2003) provides general guidance on the scope of the Job for Veterans Act and its effect on current employment and training programs. TEGL No. 05–03, along with additional guidance, is available at the ''Jobs for Veterans Priority of Service'' Web site: *http://www.doleta.gov/programs/vets*.

3. Grantee Training.

Participation is required in all ETA training activities related to orientation, financial management and reporting, performance reporting, product dissemination, and other technical assistance training as appropriate during the life of the grant. These trainings may occur via conference call, webinar, and in-person meetings. For budgeting purposes, grant recipients are expected to allocate adequate staff time and travel resources to ensure participation in two, two-day in-person events.

IV. Application and Submission Information

A. How To Obtain an Application Package

This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission

The proposal will consist of three separate and distinct parts—(I) a cost proposal, (II) a technical proposal, and (III) attachments to the technical proposal (III). Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered. Please note that it is the applicant's responsibility to ensure that the funding amount requested is consistent across all parts and sub-parts of the application.

Part I. The Cost Proposal. The Cost Proposal must include the following four items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). 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 authorized representative of the applicant.
- Applicants must supply their D–U–N–S® Number on the SF 424. All applicants for Federal grant and funding opportunities are required to have a Data Universal Numbering System (D–U–N–S® Number). See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402, Jun. 27, 2003. The D–U–N–S® Number is a non-indicative, nine-digit number assigned to each business location in the D&B database having a unique, separate, and distinct operation, and is maintained solely by D–U–N–S® Number. The D–U–N–S® Number is used by industries and organizations around the world as a global standard for business identification and tracking. If you do not have a D–U–N–S® Number, you can get one for free through the SBS site: *http://smallbusiness.dnb.com/webapp/wcs/stores/servlet/Glossary?fLink=glossary&footerflag=y&storeId=10001&indicator=7*.
- The SF 424A Budget Information Form (available at *http://www07.grants.gov/agencies/forms_*

repository_information.jsp and *http://www.doleta.gov/grants/find_grants.cfm*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request, explained in detail below.

• Budget Narrative: The budget narrative must provide a description of costs associated with each line item on the SF–424A. It should also include leveraged resources provided to support grant activities. In addition, the applicant should address precisely how the administrative costs support the project goals. The entire Federal grant amount requested should be included on both the SF 424 and SF 424A (not just one year). No leveraged resources should be shown on the SF 424 and SF 424A. Please note that applicants that fail to provide a SF 424, SF 424A, a D–U–N–S® Number, and a budget narrative will be removed from consideration prior to the technical review process.

• Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found under the Gramts.gov, Tips and Resources From Grantors, Department of Labor section at *http://www07.grants.gov/applicants/tips_resources_from_grantors.jsp#13* (also referred to as Faith Based EEO Survey PDF Form).

Part II. The Technical Proposal. Under the leadership of the State Workforce Investment Board, the SESP will develop a comprehensive Sector Plan that will serve as the technical proposal in response to this Solicitation. The Sector Plan will present the State's overall strategy for preparing workers in the energy efficiency and renewable energy industries and consists of four parts: (1) Statement of Need; (2) State Energy Sector Partnership; (3) Strategy and Work Plan; and (4) Implementation Timeline and Projected Outcomes. Applicants will be evaluated on the completeness and quality of their submissions. A full description of the criteria that will be used to evaluate each submission and points awarded are outlined in section V. A.

The Technical Proposal is limited to 30 double-spaced single-sided pages with 12 point text font and 1 inch margins. A required 1-2-page Implementation Timeline counts against this 30-page limit. Any materials beyond the 30-page limit will not be read. Applicants should number the Technical Proposal beginning with page number 1. Applicants that do not provide Part II, the Technical Proposal of the application will be removed from consideration prior to the technical review process.

Part III. Attachments to the Technical Proposal. The following are required attachments that are in addition to the 30-page Technical Proposal. Each attachment should be labeled accordingly and specify the content and number of pages. The applicant must submit:

• A Charter, not to exceed 5 pages, that includes the purpose, goals, and key functions of the SESP to be performed throughout the life of the grant. The Charter must be signed by each member and include their name, title, and organization;

• List of all local and regional project teams (name, title, organization and specific training activities) not to exceed 5 pages; and

• An Abstract, not to exceed three pages, summarizing the proposed project including applicant name; project title; funding level; areas to be served including whether the area is an urban, suburban, or rural area; and a brief synopsis of the Sector Plan. The synopsis should include targeted industries outlined in **SUPPLEMENTARY INFORMATION**, section B of this SGA; workforce and industry need(s) that will be addressed; proposed training activities; priority populations to be served; and projected training and placement outcomes. The abstract must also indicate whether one or more of the counties served by the proposed project appear on the attached list of counties impacted by automotive-related restructuring, which is included as Attachment I of this SGA. The applicant should indicate the total amount of grant funds that will be used for activities in those counties.

Please note that the Department will not accept or review letters of support or commitment. Applicants should be aware that the required Charter referenced above represents the partners' commitment to the proposed project.

Applications may be submitted electronically on Grants.gov or in hardcopy via mail or hand delivery. These processes are described in further detail in section IV. C. Applicants submitting proposals in hard copy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease the reproduction of the proposal by DOL. Applicants submitting proposals in hard copy are also required to provide an identical electronic copy of the proposal on compact disc (CD).

C. Submission Process, Date, Times, and Addresses

The closing date for receipt of applications under this announcement is October 20, 2009. Applications must be received at the address below no later than 4 p.m. (Eastern Time). Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. 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. Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: B. Jai Johnson, Grant Officer, Reference SGA/DFA, PY 08–20, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. 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. All professional overnight delivery service will be considered to be hand-delivered and must be received at the designated place by the specified closing date and time.

Applicants may apply online through Grants.gov (*http://www.grants.gov*); however due to the expected increase in system activity resulting from the Recovery Act applicants are encouraged to use an alternate method to submit grant applications during this heightened period of demand. While not mandatory, DOL encourages the submission of applications through professional overnight delivery service.

Applications that are submitted through Grants.gov must be successfully submitted at *http://www.grants.gov* no later than 4 p.m. (Eastern Time) on October 20, 2009, 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.

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.

To ensure consideration, the components of the application must be saved as either .doc, .xls or .pdf files. If submitted in any other format, the applicant bears the risk that compatibility or other issues will prevent our ability to consider the application. ETA will attempt to open the document but will not take any additional measures in the event of issues with opening. In such cases, the non-conforming application will not be considered for funding.

Applicants are strongly advised to utilize the tools and documents, including FAQs, 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/email_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 4 p.m. (Eastern Time) on the closing date and successfully validated will be considered.

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, it was properly addressed, and it was: (a) sent by U.S. Postal Service mail, postmarked 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) sent by professional overnight delivery service to the addressee not later than one working day prior to the date specified for receipt of applications. Applicants take a significant risk by waiting to the last day to submit by grants.gov. ''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 professional overnight delivery service provider indicating the time and place of receipt.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. 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. Successful and unsuccessful applicants will not be entitled to reimbursement of pre-award costs.

1. Indirect Costs

As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. In order to use 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 grant award. State agencies should already have such agreements in place.

2. Administrative Costs

Under this SGA, an entity that receives a grant to carry out a project or program may not use more than 10 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be direct or 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.

3. Use of Funds for Supportive Services

Supportive services for adults and workers impacted by national energy and environmental policy are defined at WIA sections 101(46) and 134(e)(2) and (3). They include services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in training activities funded through this grant. Grantees may only use grant funds to provide these services to individuals who are participating in training services provided through the grant, that are unable to obtain services through other programs providing such services, and when such services are necessary to enable individuals to participate in these training activities. Grantees should ensure that their use of grant funds on supportive services is consistent with their established written policy regarding the provision of supportive services. Grantees may use no more than 5% of their grant funds on these services.

Applicants should be aware that certain WIA formula funds provided through the Recovery Act can be used for supportive services and successful applicants should seek to serve eligible participants through these sources.

4. Salary and Bonus Limitations

Under Public Law 109–234 and Public Law 111–8, Section 111, none of the funds appropriated in Public Law 111–5 or prior Acts under the heading ''Employment and Training'' that are available for expenditure on or after

June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. These limitations also apply to grants funded under this SGA. The salary and bonus limitation does not apply to vendors providing goods and services as defined in OMB Circular A–133. See Training and Employment Guidance Letter number 5–06 for further clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.*

5. Intellectual Property Rights

The 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 rights of 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 are 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.

If applicable, the following statement must be included on all products developed in whole or in part with grant funds:

''This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner.''

F. Use of Funds for Wage Subsidies

Grant funds awarded through this SGA shall not be used to subsidize the wages of program participants.

G. Other Submission Requirements

Withdrawal of Applications: Applications may be withdrawn by written notice at any time before an award is made.

V. Application Review Information Criteria

Criterion	Points
Sector Plan (Technical Proposal).	
Statement of Need	15
State Energy Sector Partnership	15
Strategy and Project Work Plan	45
Implementation Timeline and Projected Outcomes	20
Suitability for Evaluation	5
Total Points	100

A. Evaluation Criteria

Applicants will be evaluated on the completeness and quality of their submissions. A total of 100 points may be achieved in accordance with the criteria articulated below. This section identifies and describes the specific criteria and points that will be used to evaluate proposals submitted under this SGA.

There are four parts to the technical proposal: (1) Statement of Need, (2) State Energy Sector Partnership, (3) Strategy and Work Plan, and (4) Implementation Timeline and Projected Outcomes. Applicants are expected to reference the State's strategic planning process throughout the entire proposal, where applicable.

1. Statement of Need (15 Points)

Applicants must fully demonstrate a clear and specific need for the Federal investment in the proposed activities. It is critical throughout this section that applicants are as explicit and specific as possible in citing sources of data and analysis. Applicants should use all relevant data from a wide variety of traditional resources (*e.g.* BLS reports and State surveys) and non-traditional information sources including consultation with industry associations, or tracking private sector and government infrastructure investments, building permits, job postings, and business hiring trends. Points for this section will be based on the relevance, completeness, and quality of data and analysis upon which the Strategy and Project Work Plan are crafted, as follows:

i. Description of the State's existing energy policy, any specific policies for the creation of jobs in the energy efficiency and renewable energy industries, the Workforce Investment Act/Wagner-Peyser Act State Plans, and data and analysis of the needs of the State as it relates to the current economy and projected trends in the energy efficiency and renewable energy industries and other industries identified in Supplementary Information, section B of this SGA. (5 points)

ii. Data and analysis of the current and projected employment opportunities by occupation in the energy efficiency and renewable energy industries and other industries as identified in this SGA and identification of the job skills necessary to obtain those employment opportunities. This could include changes and shifts in the energy efficiency and renewable energy industries impacting workers, including any potential or actual layoffs. Specific employers that need or will need skilled workers should be identified if they are employers likely to be hiring within the grant period of performance. (5 points)

iii. Demonstrate how the skills and competencies gained through training activities apply to the industries outlined in this SGA and how participants will put these new skills to work. (3 points)

iv. Data and analysis of the characteristics of the State's labor force, including information on demographics, education, skill levels, workforce challenges, and laying out skill gaps currently existing and those projected for the pipeline of future workers in the key industry focus areas. (2 points)

2. State Energy Sector Partnership (15 Points)

The SESP serves as a steering committee throughout the life of the grant to participate in the planning and support the implementation of the State's energy sector strategy and ensure the overall success of the grant. Points for this section will be based on required and suggested partner representation and participation in the SESP.

i. Applicants must fully demonstrate they have assembled a comprehensive and representative partnership reflecting the energy efficiency and renewable energy industries within the

State. The SESP membership must include the State Workforce Agency, local WIBs or regional consortia of Boards and One Stop Career Center delivery systems, as well as all required and suggested partners referenced in section I.B.1.a. (5 points)

ii. Applicants must fully describe the level of participation of each SESP member in the strategic planning and development of a Sector Plan, including selecting local and regional project teams. Applicants must also describe the roles and responsibilities of each required and suggested SESP members as referenced in section I.A.3 in contributing to the oversight of the implementation and successful operation of the Sector Plan. In addition, a Charter establishing the SESP, its purpose, goals, and key functions is a required attachment to the technical proposal and must be signed by each member and include their name, title, and organization. (5 points)

iii. Applicants should clearly and fully describe any funds and other resources that will be leveraged to support grant activities and how these funds and other resources will be used to contribute to the projected outcomes for the project, including any leveraged resources related to the provision of supportive services for program participants. This includes funds and other resources leveraged from businesses, labor organizations, education and training providers, and/or Federal, state, and local government programs. Applicants will be scored based on the extent to which they fully demonstrate the amount of leveraged resources provided, the type(s) of leveraged resources provided, the strength of commitment to provide these resources, the breadth and depth of the resources provided, and how well these resources support the proposed grant activities. (5 points)

3. Strategy and Project Work Plan (45 Points).

Applicants must present the State's overall energy sector strategy for preparing workers in the targeted industries identified in Supplementary Information, section B of this SGA. ETA is interested in applicants describing any evidence-based research that they considered in designing the strategy. Points for this section will be based on the comprehensiveness of description and degree of clarity of the following factors:

i. Comprehensive description of the State's energy sector strategy for training workers in the energy efficiency and renewable energy industries including the number of jobs available, targeted industry sector focus areas, and proposed training activities. Applicants should fully discuss the relationship between the proposed training activities and the State's existing energy sector policies, Workforce Investment Act/Wagner-Peyser Act State Plan, and data and analysis presented in the Statement of Need. (10 points)

ii. Description of priority populations to be served, the potential challenges to effectively serving these populations, and how these challenges will be resolved. If possible, the applicant should include an analysis of the skills possessed by the target population which are transferable to the key sector focus areas and occupations, the estimated skills gap between populations to be served and the needs of the key sector focus areas. (10 points)

iii. Description of local and regional project teams and the rationale for selection of those teams. The following information must be presented for each local or regional project team. (20 points)

- Geographic area of each local and regional partnership team.
- The relevant qualifications and experience of the lead staff member or co-leads from each local workforce investment board(s) project team that will be responsible for the coordination and strategic problem solving among training providers and project team partners. Applicants also must include relevant qualifications and experience for each lead staff member or co-leads from each local workforce investment board(s).
- Project team partners and their roles.
- Recruitment: The applicant must provide a comprehensive outreach and recruitment strategy that defines a clear process for finding and referring workers to the training programs. The applicant must clearly identify the populations that will be targeted by the project, and explain how the proposed strategy will enable the project to effectively recruit those populations.
- Training: DOL encourages applicants to base their training strategies on program models that have shown promising outcomes for serving disadvantaged populations. The applicant must provide a detailed explanation of the proposed training activities that describes how the project will comprehensively address the training needs of the targeted populations, including a discussion of how the design of the training activities will account for the current skill level, age, or level of work experience of the targeted populations. The applicant must also fully describe how the project will address barriers to employment by combining training services with supportive services, such as child care or transportation, as appropriate for each targeted population. The applicant must fully demonstrate that the project will focus on the specific industries and occupations it has proposed to target and focuses on skills and competencies demanded by the selected industries and occupations; and the project will integrate basic skills training where appropriate, and lead to an appropriate industry-recognized degree or certificate (if such a degree or certificate exists) and employment. Where there is no standardized industry-recognized degree or certificate in place, applicants should provide evidence that such a degree or certificate does not exist and the search they conducted for the degree or certificate. Applicants that provide this evidence will not lose points in the evaluation process.

In addition, the training strategy should include information about new curricula, or other materials to be developed. If existing curricula will be used, applicants should provide available information that demonstrates positive employment outcomes for those previously trained on this curricula. The strategy must also provide information about case management services and supportive service delivery, such as who will provide these services and how these services will be funded (*e.g.,* through grant funds or leveraged resources), provided to participants during training.

- Placement: The applicant must provide a clear strategy for placing individuals into employment. The applicant should describe the methods for engaging employers, identifying specific job needs, and referring participants to employers. Wherever possible, the applicant should identify specific employers that indicate plans to hire project participants that complete training.
- Retention: The applicant must provide a clear, comprehensive strategy for job retention. This should include strategies for engaging employers, as well as for identifying the barriers to retention that participants face after placement and for providing them with supportive services to address these barriers.

iii. Strong evidence that the applicant has the fiscal, administrative, and performance management capacity to effectively administer this grant. The applicant must fully describe its capacity to lead and manage the SESP, and oversee the local and regional project teams in order to successfully implement the State Energy Sector Plan.

Discussion should also include the applicant's relevant systems, processes, and administrative controls that will enable it to comply with Federal rules and regulations related to the grant's fiscal and administrative requirements as well as its performance management requirements. (5 points)

4. Implementation Timeline and Projected Outcomes (20 Points)

A. Implementation Timeline

Applicants must prepare a 1–2 page Implementation Timeline for the period of performance. These pages count toward the 30-page limitation for the technical proposal. The Implementation Timeline must include estimated timeframes for the start dates and completion dates of key grant activities and deliverables, if applicable. A brief description of each deliverable (such as curricula or outreach materials), should be included, as well as the anticipated method for electronic delivery to ETA. Electronic delivery may include e-mail for smaller documents, DVDs or other electronic media for transmission of larger files. (5 points)

B. Projected Outcomes

Applicants must demonstrate a results-oriented approach to managing and operating their project by fully describing the proposed outcome data measures. Applicants must also demonstrate projected outcomes, to be used as baseline numbers for tracking progress in several categories related to training; and the methods proposed to collect and validate outcome data in a timely and accurate manner. Points will be awarded based on the following factors: (1) The extent to which the expected project outcomes are clearly identified and measurable, realistic and consistent with the objectives of the project and the needs of the regional economy; (2) the applicant's ability to achieve the stated outcomes and report results within the timeframe of the grant; and (3) the appropriateness of the outcomes with respect to the requested level of funding.

i. Applicants must explain their process to collect, verify, and manage participant data from each of the local and regional project teams, in order to allow the State to submit aggregate data to DOL on a quarterly basis. (5 points)

ii. Projected Performance Outcomes (10 points)

Applicants must provide projections and track outcomes for each of the following outcome categories for all participants served with grant funds:

- Total participants served;
- Total number of participants beginning education/training activities;
- Total number of participants completing education/training activities;
- Total number of participants that complete education/training activities that receive a degree or certificate;
- Total number of participants that complete education/training activities that are placed into unsubsidized employment;
- Total number of participants that complete education/training activities that are placed into training-related unsubsidized employment; and
- Total number of participants placed in unsubsidized employment who retain an employed status at the first and second quarters following initial placement.

Please note that applicants will need to be prepared to collect participant-level data on individuals who receive training and other services provided through the grant. These data should be the basis for reporting against the outcomes listed above, and may be required for reporting on other employment-related outcomes in the future. ETA will provide appropriate technical assistance to the grantees in collecting these data, including the development of a participant tracking system for the grantees. Please note that in some cases, the data requested below may require appropriate partnerships with state and local workforce investment system entities.

Applicants will be required to collect participants' social security numbers as part of individual level data collection. Social security numbers will be used for the calculation of employment history and program outcomes. It is anticipated that by collecting social security numbers of participants, ETA will be able to calculate most employment outcomes administratively through the use of Unemployment Insurance wage record information. Applicants must ensure that social security numbers will be maintained in a secure and confidential manner.

Applicants should be prepared to collect and report participant-level data from the following categories:

- Demographic and socioeconomic characteristics
- Employment history
- Services provided
- Outcomes achieved

5. Suitability for Evaluation (5 points)

Under this Solicitation, the Department of Labor seeks to support programs that will provide training that improves participants' employment outcomes. The Department is committed to evaluating program results to assess whether programs meet this goal and which models are most effective, providing a basis for future program improvements and funding decisions. The Department intends to select some portion of grantees to participate in a rigorous evaluation. This section asks for evidence that applicants will be able to participate productively in an evaluation. To receive points under this section, applicants must describe their plans for meeting the following criteria. Specifically, the project must:

- Explain a recruitment plan that could yield a large number of qualified applicants for the program, and potentially more applicants than the number of positions available;
- Be able to collect participant-level information on individuals who apply to participate in the program;
- Have project retention strategies to minimize client attrition and help researchers track those who leave the program before completion;
- Work collaboratively with an outside evaluator selected by the Department of Labor;
- Be willing to work with academics who are independent researchers qualified to conduct rigorous research; and,
- Provide additional information about why funding this proposal will enhance knowledge about effective programs in a way that has the potential to benefit individuals and communities not directly served by the program.

B. Review and Selection Process

Applications for grants under this SGA will be accepted after the publication of this announcement and until the closing date. A technical review panel will make a careful evaluation of applications against the selection criteria. The selection criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, depending on the quality of the responses to the required information described in section V.A. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as geographic balance; balance across the energy efficiency and renewable energy industries; representation among communities impacted by automotive industry restructuring 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 government 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.*

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution and non-selected applicants will be notified by mail. Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, the Department 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.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions:

i. Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

ii. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

iii. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR part 97 (Administrative Requirements).

iv. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 (Cost Principles), and 29 CFR Part 95 (Administrative Requirements).

v. All entities must comply with 29 CFR Parts 93 and 98, and, where applicable, 29 CFR parts 96 and 99.

vi. 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.

vii. 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.

viii. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

iv. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

x. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

xi. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

The following administrative standards and provisions may be applicable:

i. The American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, Division A, Title VIII (February 17, 2009).

ii. The Green Jobs Act of 2007, Public Law 110–140, 121 Stat. 1748 (codified at 29 U.S.C. 2916).

iii. The Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 939 (codified as amended at 29 U.S.C. 2801 *et seq.*) and 20 CFR part 667 (General Fiscal and Administrative Rules).

iv. 29 CFR part 29 and 30—Apprenticeship and Equal Employment Opportunity in Apprenticeship and Training; and

v. 29 CFR Part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

• The Department notes that the Religious Freedom Restoration Act (RFRA), 42 U.S.C. 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.

vi. Under WIA section 181(a)(4), health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in training and other activities. Applicants that are awarded grants through this SGA are reminded that these health and safety standards apply to participants in these grants.

In accordance with section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 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. Except as specifically provided in this SGA, ETA's acceptance of a proposal and an award of Federal funds to sponsor any programs(s) does not provide a waiver of any grant requirements and/or procedures. For example, the 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, ETA's 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.

2. Special Program Requirements

i. Evaluation

To measure the impact of grants funded under the SGA, ETA intends to fund one or more independent evaluations, which could include a random-assignment impact evaluation. By accepting funding, grantees must agree to participate in such an evaluation, should their site(s) be selected to participate. Grantees must agree to make records on participants, employers, and funding available and to provide access to program personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

ii. Sustainability

Grantees must allow adequate time during the period of performance to conduct sustainability planning that involves the public workforce system and other key partners, where appropriate, to help ensure that their strategic partnership(s) and core training, placement, and retention activities, or labor market information and exchange activities, are sustained after the grant ends. Grantees will be required to submit a written sustainability plan to ETA prior to the end of the grant. Grantees are reminded that the expenditure of any grant funds on activities related to sustainability and sustainability planning must be consistent with the grantees' statement

of work, and in accordance with all relevant rules and regulations that apply to their grants. When expending grant funds on activities related to sustainability and sustainability planning, grantees are reminded that they must adhere to Federal rules and regulations on outreach, fundraising, lobbying, and all other relevant and applicable rules and regulations.

iii. Definition of Certificate

Definition of Certificate: A certificate is awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are based on standards developed or endorsed by employers.

Certificates awarded by workforce investment boards are not included in this definition. Work readiness certificates are also not included in this definition. A certificate is awarded in recognition of an individual's attainment of technical or occupational skills by:

- A State educational agency or a State agency responsible for administering vocational and technical education within a State.
- An institution of higher education described in section 102 of the Higher Education Act (20 U.S.C. 1002) that is qualified to participate in the student financial assistance programs authorized by Title IV of that Act. This includes community colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in Federal student financial aid programs.
- A professional, industry, or employer organization (*e.g.,* National Institute for Automotive Service Excellence certification, National Institute for Metalworking Skills, Inc., Machining Level I credential) or a product manufacturer or developer (*e.g.,* Microsoft Certified Database Administrator, Certified Novell Engineer, Sun Certified Java Programmer) using a valid and reliable assessment of an individual's knowledge, skills, and abilities.
- A registered apprenticeship program.
- A public regulatory agency, upon an individual's fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to use an occupational or professional title or to practice an occupation or profession (*e.g.,* FAA aviation mechanic certification, State certified asbestos inspector).
- A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons.
- Job Corps centers that issue certificates.
- An institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes.

iv. Definitions of Populations and Other Key Terms: Organizations submitting an application in response to this SGA should use the following definitions for any of the following populations and/or other key terms that are specifically identified in this SGA:

- Disadvantaged individuals within areas of high poverty: For the purposes of this SGA, disadvantaged individuals are defined as individuals who live in areas where the poverty rate is 15% or greater and who demonstrate that they could benefit from skill training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information, section B of the summary section of this SGA.
- High school drop-outs: For the purposes of this SGA, ETA defines ''high school drop-out'' as an individual who is no longer attending any secondary school and who has not received a secondary school diploma or its recognized equivalent.
- Individuals in need of updated training related to the energy efficiency and renewable energy industries: For the purposes of this SGA, this term refers to individuals who are currently employed; or were terminated or laid-off or have received a notice of termination or lay-off from employment; or were self-employed but are now unemployed; and can benefit from training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information, section B of this SGA.
- Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency: For the purposes of this SGA, ETA defines this term as individuals who reside in high poverty areas, which are areas where the poverty rate is 15% or greater, who demonstrate that they could benefit from skill training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information, section B of this SGA.
- Individuals with a criminal record: For the purposes of this SGA, ETA defines this term as an individual who is or has been subject to any stage of the juvenile or criminal justice process, for whom services under this Act may be beneficial; or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. ETA includes individuals with a juvenile or criminal record in the definition for this term.
- Unemployed individuals: For the purposes of this SGA, ETA defines ''unemployed individual'' as an individual who is without a job and who wants and is available to work.
- Veterans: For the purposes of this solicitation, ETA follows the WIA definition of veteran under 29 U.S.C. 2801(49)(A), which defines the term ''veteran'' as ''an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.'' Active military service includes full-time duty (other than full-time duty for training purposes) in Reserve components ordered to active duty, or in National Guard units called to Federal Service by the President.
- Workers impacted by national energy and environmental policy: For the purposes of this SGA, ETA defines this term as individuals who: (1) Are currently employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and have received a notice of termination or lay-off from employment; or (2) were employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and are now unemployed.
- National labor-management organization: A national labor-management organization is a nonprofit entity, such as a training fund, training trust fund, or an education trust fund, with joint participation of employers

and labor organizations on its executive board or comparable governing body. This entity must have a formalized agreement between the employer(s) and labor organization(s) to operate a joint labor management training program(s) in multiple sites across the country through the state, local, or regional networks affiliated with the nonprofit entity.

• U.S. territories: For the purposes of this SGA, the term ''U.S. territories'' includes the Commonwealth of Puerto Rico, as well as the following outlying areas: The United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

3. American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) Provisions

Prospective applicants are advised that, if they receive an award, they must comply with all requirements of the American Recovery and Reinvestment Act of 2009 [Pub. L 111–5]. Applicants are advised to review the Act and implementing OMB guidance in the development of their proposals. Requirements include, but are not limited to:

i. Adherence to all grant clauses and conditions as they relate to Recovery Act activity.

ii. Prohibition on expenditure of funds for activities at any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

iii. Compliance with the requirements to obtain a DUNS number and register with the Central Contractor Registry (CCR). ETA will issue additional guidance related to this requirement shortly.

iv. Submission of required reports in accordance with section 1512 of the Recovery Act. These reports will be due quarterly within 10 days of the end of the reporting period and are in addition to the ETA required reports addressed in section VI.C. of this SGA. ETA will issue additional guidance related to these reports and their submission requirements shortly. Implementing OMB guidance may be found at *http://www.recovery.gov*.

C. Reporting

Quarterly financial reports, quarterly progress reports, and MIS data will be submitted by the grantee electronically. The grantee is required to provide the reports and documents listed below:

1. Quarterly Financial Reports. A Quarterly Financial Status Report (ETA 9130) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 45 days after the end of each calendar year quarter. Grantees must use DOL's On-Line Electronic Reporting System and information and instructions will be provided to grantees.

2. Quarterly Performance Reports. The grantee must submit a quarterly progress report within 45 days after the end of each calendar year quarter. In order to submit these quarterly reports, grantees will be expected to track participant-level data regarding the individuals that are involved in training and other services provided through the grant and report on participant status in a variety of fields and outcome categories, as well as provide narrative information on the status of the grant. The last quarterly report that grantees submit will serve as the grant's Final Performance Report. This report should provide both quarterly and cumulative information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project, and should thoroughly document the training or labor market information approaches utilized by the grantee. DOL will provide grantees with formal guidance regarding data and other information that is required to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements.

3. Record Retention. Applicants should be aware of Federal guidelines on record retention, which require grantees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

VII. Agency Contacts

For further information regarding this SGA, please contact Jeanette Flowers, Grant Management Specialist, Division of Federal Assistance, at (202) 693–3322 (this is not a toll-free number). Applicants should e-mail all technical questions to *Flowers.Jeanette@dol.gov* and must specifically reference SGA/DFA PY 08–20, and along with question(s), include a contact name, fax and phone number.This announcement is being made available on the ETA Web site at *http://www.doleta.gov/grants* and at *http://www.grants.gov*.

VIII. Additional Resources of Interest to Applicants

A. Other Web-Based Resources

DOL maintains a number of web-based resources that may be of assistance to applicants. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One Stop Career Centers.

B. Industry Competency Models

ETA supports an Industry Competency Model Initiative to promote an understanding of the skill sets and competencies that are essential to an educated and skilled workforce. A competency model is a collection of competencies that taken together define successful performance in a particular work setting. Competency models serve as a starting point for the design and implementation of workforce and talent development programs. To learn about the industry-validated models visit the Competency Model Clearinghouse (CMC) at *http://www.careeronestop.org/CompetencyModel/*. The CMC site also provides tools to build or customize industry models, as well as tools to build career ladders and/or lattices leading to career pathways.

C. Federal Collaboration

DOL encourages other Federal partners to recommend or require, where appropriate, that organizations receiving Recovery Act funding list jobs created with their State public labor exchange. The Department is developing specific strategies to link job listings, training opportunities and placement among programs funded by Departments of Housing and Urban Development, Energy, Transportation, Education, and the Environmental Protection Agency. Where the grantee is not the public workforce system, they are strongly encouraged to work with the local One Stop Career Center to make these connections.

D. Links to Federal Recovery Sites

For specific information on a range of Federal agency Recovery Act activities and funding opportunities, please access the following Web sites:

• Department of Education: *http://www.ed.gov/policy/gen/leg/recovery/index.html*.

• Department of Energy: *http://www.doe.gov/recovery*.

• Department of Housing and Urban Development: *http://www.hud.gov/recovery*.

• Department of Transportation: *http://www.dot.gov/recovery/*.

• Environmental Protection Agency: *www.epa.gov/recovery*.

E. Promising Training Approaches

ETA encourages applicants to research promising training approaches in order to inform their proposals. The following list of Web sites provides a starting place for this research, but by no means should be considered a complete list:

- ETA's home site *(http://www.doleta.gov)* and the ETA Research Publication Database (*wdr.doleta.gov/research/keyword.cfm*).
- ETA's knowledge sharing site (*http://www.workforce3one.org*), including the ''workforce solutions'' section that contains over 6,000 additional resources applicants may find valuable in developing workforce strategies and solutions.
- The National Governors Association Center for Best Practices *(http://www.nga.org)*.
- The National Association of State Workforce Agencies (*http://www.workforceatm.org*).
- The National Association of Workforce Boards *(http://www.nawb.org)*.

IX. 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 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 OMB Desk Officer for ETA, Department of Labor, in the Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the 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 SGA will be used by DOL 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.

Signed at Washington, DC, this 19th day of June, 2009.

B. Jai Johnson,

Grant Officer, Employment and Training Administration.

ATTACHMENT I—COUNTIES IMPACTED BY AUTOMOTIVE-RELATED RESTRUCTURING

FIPS	County name	State
1013	Butler	AL
1021	Chilton	AL
1083	Limestone	AL
1085	Lowndes	AL
1095	Marshall	AL
1101	Montgomery	AL
1121	Talladega	AL
1125	Tuscaloosa	AL
5023	Cleburne	AR
5041	Desha	AR
5055	Greene	AR
5083	Logan	AR
6001	Alameda	CA
10003	New Castle	DE
13167	Johnson	GA
13285	Troup	GA
17007	Boone	IL
17025	Clay	IL
17031	Cook	IL
17047	Edwards	IL
17067	Hancock	IL
17113	McLean	IL
17121	Marion	IL
17155	Putnam	IL
17187	Warren	IL
17189	Washington	IL
17191	Wayne	IL
18001	Adams	IN
18003	Allen	IN
18005	Bartholomew	IN
18009	Blackford	IN
18015	Carroll	IN
18017	Cass	IN
18025	Crawford	IN
18031	Decatur	IN
18033	De Kalb	IN
18035	Delaware	IN
18037	Dubois	IN
18039	Elkhart	IN
18041	Fayette	IN
18045	Fountain	IN
18047	Franklin	IN
18051	Gibson	IN
18053	Grant	IN
18059	Hancock	IN
18061	Harrison	IN
18065	Henry	IN
18067	Howard	IN
18071	Jackson	IN
18075	Jay	IN
18077	Jefferson	IN
18081	Johnson	IN
18087	Lagrange	IN
18093	Lawrence	IN
18103	Miami	IN
18107	Montgomery	IN
18113	Noble	IN
18123	Perry	IN
18133	Putnam	IN

ATTACHMENT I—COUNTIES IMPACTED BY AUTOMOTIVE-RELATED RESTRUCTURING—Continued

FIPS	County name	State
18135	Randolph	IN
18141	St. Joseph	IN
18143	Scott	IN
18147	Spencer	IN
18149	Starke	IN
18151	Steuben	IN
18153	Sullivan	IN
18157	Tippecanoe	IN
18159	Tipton	IN
18175	Washington	IN
18179	Wells	IN
18183	Whitley	IN
19029	Cass	IA
19037	Chickasaw	IA
19071	Fremont	IA
19089	Howard	IA
19095	Iowa	IA
19115	Louisa	IA
19149	Plymouth	IA
19157	Poweshiek	IA
19175	Union	IA
19197	Wright	IA
20001	Allen	KS
20209	Wyandotte	KS
21003	Allen	KY
21009	Barren	KY
21017	Bourbon	KY
21023	Bracken	KY
21031	Butler	KY
21033	Caldwell	KY
21041	Carroll	KY
21043	Carter	KY
21055	Crittenden	KY
21057	Cumberland	KY
21069	Fleming	KY
21073	Franklin	KY
21075	Fulton	KY
21077	Gallatin	KY
21081	Grant	KY
21093	Hardin	KY
21099	Hart	KY
21101	Henderson	KY
21103	Henry	KY
21107	Hopkins	KY
21111	Jefferson	KY
21113	Jessamine	KY
21121	Knox	KY
21123	Larue	KY
21137	Lincoln	KY
21151	Madison	KY
21155	Marion	KY
21167	Mercer	KY
21169	Metcalfe	KY
21173	Montgomery	KY
21179	Nelson	KY
21183	Ohio	KY
21191	Pendleton	KY
21199	Pulaski	KY
21207	Russell	KY
21209	Scott	KY
21211	Shelby	KY
21213	Simpson	KY
21221	Trigg	KY
21227	Warren	KY
21229	Washington	KY
22017	Caddo	LA
26009	Antrim	MI
26025	Calhoun	MI
26045	Eaton	MI
26049	Genesee	MI

ATTACHMENT I—COUNTIES IMPACTED BY AUTOMOTIVE-RELATED RESTRUCTURING—Continued

FIPS	County name	State
26059	Hillsdale	MI
26063	Huron	MI
26065	Ingham	MI
26067	Ionia	MI
26069	Iosco	MI
26075	Jackson	MI
26079	Kalkaska	MI
26081	Kent	MI
26087	Lapeer	MI
26091	Lenawee	MI
26093	Livingston	MI
26099	Macomb	MI
26107	Mecosta	MI
26111	Midland	MI
26113	Missaukee	MI
26115	Monroe	MI
26125	Oakland	MI
26127	Oceana	MI
26133	Osceola	MI
26135	Oscoda	MI
26139	Ottawa	MI
26143	Roscommon	MI
26145	Saginaw	MI
26147	St. Clair	MI
26149	St. Joseph	MI
26157	Tuscola	MI
26159	Van Buren	MI
26161	Washtenaw	MI
26163	Wayne	MI
26165	Wexford	MI
27029	Clearwater	MN
27123	Ramsey	MN
28009	Benton	MS
28011	Bolivar	MS
28051	Holmes	MS
28089	Madison	MS
28119	Quitman	MS
28129	Smith	MS
28145	Union	MS
28161	Yalobusha	MS
29047	Clay	MO
29061	Daviess	MO
29079	Grundy	MO
29105	Laclede	MO
29147	Nodaway	MO
29175	Randolph	MO
29183	St. Charles	MO
29189	St. Louis	MO
29229	Wright	MO
31019	Buffalo	NE
31047	Dawson	NE
31051	Dixon	NE
31141	Platte	NE
31159	Seward	NE
36063	Niagara	NY
37071	Gaston	NC
37089	Henderson	NC
37145	Person	NC
37165	Scotland	NC
38051	McIntosh	ND
39001	Adams	OH
39011	Auglaize	OH
39019	Carroll	OH
39021	Champaign	OH
39027	Clinton	OH
39033	Crawford	OH
39039	Defiance	OH
39043	Erie	OH
39051	Fulton	OH
39063	Hancock	OH

ATTACHMENT I—COUNTIES IMPACTED BY AUTOMOTIVE-RELATED RESTRUCTURING—Continued

FIPS	County name	State
39065	Hardin	OH
39069	Henry	OH
39071	Highland	OH
39077	Huron	OH
39079	Jackson	OH
39083	Knox	OH
39091	Logan	OH
39093	Lorain	OH
39095	Lucas	OH
39097	Madison	OH
39117	Morrow	OH
39121	Noble	OH
39125	Paulding	OH
39131	Pike	OH
39135	Preble	OH
39137	Putnam	OH
39139	Richland	OH
39141	Ross	OH
39143	Sandusky	OH
39147	Seneca	OH
39149	Shelby	OH
39155	Trumbull	OH
39159	Union	OH
39161	Van Wert	OH
39169	Wayne	OH
39171	Williams	OH
39173	Wood	OH
39175	Wyandot	OH
40095	Marshall	OK
42117	Tioga	PA
45007	Anderson	SC
45019	Charleston	SC
45021	Cherokee	SC
45035	Dorchester	SC
45067	Marion	SC
45083	Spartanburg	SC
47001	Anderson	TN
47003	Bedford	TN
47007	Bledsoe	TN
47009	Blount	TN
47015	Cannon	TN
47031	Coffee	TN
47041	DeKalb	TN
47045	Dyer	TN
47053	Gibson	TN
47055	Giles	TN
47061	Grundy	TN
47063	Hamblen	TN
47065	Hamilton	TN
47069	Hardeman	TN
47073	Hawkins	TN
47077	Henderson	TN
47079	Henry	TN
47087	Jackson	TN
47097	Lauderdale	TN
47099	Lawrence	TN
47105	Loudon	TN
47107	McMinn	TN
47109	McNairy	TN
47117	Marshall	TN
47119	Maury	TN
47121	Meigs	TN
47123	Monroe	TN
47131	Obion	TN
47133	Overton	TN
47135	Perry	TN
47141	Putnam	TN
47143	Rhea	TN
47147	Robertson	TN
47149	Rutherford	TN

ATTACHMENT I—COUNTIES IMPACTED BY AUTOMOTIVE-RELATED RESTRUCTURING—Continued

FIPS	County name	State
47151	Scott	TN
47159	Smith	TN
47177	Warren	TN
47185	White	TN
48029	Bexar	TX
48439	Tarrant	TX
49003	Box Elder	UT
51023	Botetourt	VA
51155	Pulaski	VA
51173	Smyth	VA
54079	Putnam	WV
55075	Marinette	WI

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BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

American Recovery and Reinvestment Act of 2009; Notice of Availability of Funds and Solicitation for Grant Applications for State Labor Market Information Improvement Grants

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY 08–17.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.275.

DATES: *Key Dates:*

The closing date for receipt of applications under this announcement is August 14, 2009. Applications must be received no later than 4 p.m. (Eastern Time) or submitted electronically by the deadline and in accordance with the instructions in Section IV.C. of this Solicitation for Grant Applications (SGA). A pre-recorded Webinar will be online (*http://www.workforce3one.org*) and accessible for viewing on July 10, 2009 by 3 p.m. ET, and will be available for viewing anytime after that date. While a review of this webinar is encouraged it is not mandatory that you view this recording.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment & Training Administration, Division of Federal Assistance, Attention: Willie Harris, Grants Officer, Reference SGA/DFA PY–08–17, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. For complete ''Application and Submission Information,'' please refer to Section IV.

SUMMARY: The Department of Labor (DOL or the Department), Employment

and Training Administration (ETA) announces the availability of approximately $50 million in grant funds authorized by the American Recovery and Reinvestment Act of 2009 (the Recovery Act), Public Law 111–5, 123 Stat. 115, Division A, Title VIII, for the Workforce Agencies of the 50 States, the District of Columbia, and U.S. Territories, or a consortium of such agencies, to collect, analyze, and disseminate labor market information, and to enhance the labor exchange infrastructure for careers within the energy efficiency and renewable energy industries described in the **SUPPLEMENTARY INFORMATION**: Part B of this SGA. The eligible applicant for this grant solicitation is the State Workforce Agency, as States are expected to use workforce and labor market information and data as the foundation on which to build and implement effective workforce development strategies. This SGA encourages collaborative approaches, whereby multiple States apply as a consortium to conduct research that may potentially have a multi-State or national impact (please see Section III.A. for detailed eligibility information). ETA intends to fund individual State grants ranging from approximately $750,000 to $1,250,000. Individual grant awards to consortium applicants will range from $2 to $4 million, contingent upon an adequate justification of proposed project needs and the availability of resources.

SUPPLEMENTARY INFORMATION:

A. Recovery Act: Competitive Grants for Green Job Training

This section of the SGA provides general background on the American Recovery and Reinvestment Act of 2009 (Recovery Act), the competitive grants funded through the Recovery Act to prepare workers for careers in the energy efficiency and renewable energy industries, and the occupations and industries on which these grants should focus. On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 (Recovery Act) through which Congress intended to preserve and create jobs, promote the nation's economic recovery, and assist those most impacted by the recession. Among other funding directed toward the Department of Labor, the Recovery Act provides $750 million for a program of competitive grants for worker training and placement in high growth and emerging industries. Of the $750 million allotted for competitive grants, the Recovery Act designates $500 million for projects that prepare workers for careers in the energy efficiency and renewable energy sectors described in Section 171(e)(1)(B) of the Workforce Investment Act (WIA). DOL intends to use a portion of the $500 million for providing technical assistance for this program of grants.

The purpose of these grants, which fund both green job training and research projects, is to teach workers the skills required in these emerging energy efficiency and renewable energy sectors. These efforts will lead program participants to job placement while leveraging other Recovery Act investments intended to create jobs and promote economic growth. This specific SGA focuses on collecting, analyzing, and disseminating labor market information and developing a labor exchange infrastructure, while other grants in this series focus on training and related activities. For additional information about the series of competitive grants for green job training and research projects, please refer to Training and Employment Notice (TEN) 44–08 available at *http://www.doleta.gov/Recovery/legislation.cfm.*

B. Green Industries and Occupations

Through this series of grants, the Department will fund workforce development research and training projects that will help connect target populations, including auto and auto-related industry workers affected by significant automotive-related restructurings, to career pathways in green industries. Grantees will implement research and training programs that will help prepare individuals for careers in any of the seven energy efficiency and renewable energy industries defined in Section 171(e)(1)(B)(ii) of the WIA, which include:

- The energy-efficient building, construction, and retrofit industries;
- The renewable electric power industry;
- The energy efficient and advanced drive train vehicle industry;
- The biofuels industry;
- The deconstruction and materials use industries;
- The energy efficiency assessment industry serving residential, commercial, or industrial sectors; and
- Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

Additionally, the Department is interested in applicants contributing to our understanding of green industries and jobs that clean and enhance our environment. Initial research supported by the Department of Labor shows that there are ''growth, enhanced and emerging'' green occupations across a number of industries. Applicants may propose strategies that focus on training or labor market information and exchange related to those occupations from among the following industries: transportation; green construction; environmental protection; sustainable agriculture including healthy food production; forestry; and recycling and waste reduction (see O*NET report at *http://www.onetcenter.org/reports/Green.html).* The Department will consider proposals that focus on these occupations within these industries if applicants can offer supporting data demonstrating these are emerging industries which are producing jobs in their communities.

For the purpose of these SGAs, the Department defines energy efficiency and renewable energy as follows. Section 203(b)(2) of the Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 595, defines ''renewable energy'' as ''electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.'' ''Energy efficiency'' can be broadly defined as programs aimed at mitigating the use of energy, reducing harmful emissions, and decreasing overall energy consumption.

The Department of Labor's Bureau of Labor Statistics (BLS) is working to develop a definition for green sectors and jobs, which will be used to ensure that workforce development efforts identify and target these green jobs and their training needs. The Department has also supported occupational research that begins to define green jobs, review sectors impacted by green investments, and understand how new green technology and materials will affect occupational requirements. The Occupational Information Network (O*NET) project has drafted a research paper titled, *Greening of the World of Work: Implications for O*NET–SOC and New and Emerging Occupations.* This study reflects three general categories of occupations, based on different consequences of green economy activities and technologies: (1) Existing occupations expected to experience primarily an increase in employment demand; (2) existing occupations with significant change to the work and worker requirements; and (3) new and emerging green occupations. This research may be used as a starting point

for identifying green industries and occupations and informing the development of training and job placement programs. For a copy of the O*NET report and a listing of the identified occupations go to *http://www.onetcenter.org/reports/Green.html*

C. Working With Other Recovery Act Programs

The Recovery Act made funds available to a number of other federal programs that will impact the creation and expansion of green jobs. DOL is partnering with other federal agencies to support the creation of jobs by developing a pipeline of skilled workers in the energy efficiency and renewable energy industries. Where possible, ETA encourages applicants to connect their workforce development strategies to other Recovery Act funded projects that create jobs or impact the skill requirements of existing jobs. ETA recommends that applicants review other parts of the Recovery Act, with a focus on the activities funded through the Department of Energy (Energy), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the Department of Education (Education) and others. For additional resources and information about our federal partners, please see Section VIII, ''Additional Resources of Interest to Applicants.''

I. Funding Opportunity Description

A. Overview

The Department is making available approximately $50 million in grant funds authorized by the Recovery Act for State Workforce Agencies, or a consortium of such agencies, to collect, analyze, and disseminate labor market information, and to enhance the labor exchange infrastructure for careers within the energy efficiency and renewable energy industries as defined in the Supplementary Information: Part B of this SGA. Individual grant awards to single State applicants will range from $750,000 to $1,250,000. Individual grant awards to consortium applicants will range from $2 to $4 million, contingent upon adequate justification of proposed project needs and the availability of resources (see Section III.A. for information on eligible applicants). Within the funding ranges specified above, applicants are encouraged to submit proposals for quality projects at whatever funding level is appropriate to the project.

As articulated in Section V of this SGA addressing application review criteria, the Department is seeking proposals for research and analysis of labor market data to assess economic activity in energy efficiency and renewable energy industries and identify occupations within those industries, as outlined in the Supplementary Information: Part B of this SGA.

The Recovery Act will stimulate the creation of green jobs through investments in renewable energy, energy efficiency, and other areas. One goal of the Department is to obtain employment estimates of the number and skill characteristics of current and future (projected) jobs in the green economy. The Department also is interested in assessing the extent to which new green jobs are being created as a result of Recovery Act investments, as well as investments from State and local governments, the private sector, and community organizations in green technologies and methods.

ETA is working with BLS to explore approaches to define and measure green jobs, including how surveys might be designed to evaluate the extent of green economic activity in businesses and industries, and identify the specific occupations of the employees who are doing such work. The Department intends for the labor market research efforts funded under this SGA to be coordinated with BLS activities, to the extent that such information is available within the grant timeframes, in order to promote consistent and comparable data across States on green employment impacts. Furthermore, these data collection activities must either conform to technical standards and methodologies established by BLS, or provide a sound rationale for the use of an alternative methodology.

BLS is currently developing methods to identify green industries and occupations. These definitions will be based on, and consistent with, the frameworks used in the North American Industry Classification System (NAICS), the Standard Occupational Classification (SOC) system, or the Occupational Information Network (O*NET) system (based on SOC), with additional details or new specializations identified as needed. Data collection activities proposed by applicants should be consistent with these classification frameworks. As applicants examine existing classifications of energy efficiency and renewable energy industry occupations, they will identify more specific industries or occupations for separate identification.

Applicants should reference the activities underway at BLS and the list of new and emerging occupations in the O*NET study as a starting point for data collection research on new green occupations. For a copy of the O*NET report and a listing of the identified occupations go to *http://www.onetcenter.org/reports/Green.html.*

In addition to this O*NET occupational information, ETA also supports the development and dissemination of industry competency models, available through the Competency Model Clearinghouse Web site within CareerOneStop.org (*http://www.careeronestop.org/CompetencyModel/default.aspx*). Some of these industry competency models, such as Residential Construction, and Energy, already contain certain green competency components that may be useful as a starting point or supplement for further development or customization for a State or regional economy.

Funds are being made available to provide education and job training to prepare workers for green jobs through separate DOL grant solicitations and WIA funding provided by the Recovery Act. To facilitate the placement of workers in these jobs, the Department is seeking information on current and expected employment numbers, research to identify the skill and competency requirements of newly created jobs, as well as the identification of changing skill needs of existing occupations that will require proficiency with new green technologies and materials. One key goal is to ensure that the training efforts being funded through the public workforce investment system provide workers with the training that will be in demand for green jobs, and to ensure that a supply of trained workers will be available to fill the openings posted by businesses that will be hiring as a result of Recovery Act investments.

B. Strategies and Approaches

Applicants must propose strategies and approaches in the following focus areas:

1. Data Collection and Estimation Activities Related to Green Industries, Occupations, and Skill Requirements

Applicants will propose effective methods for estimating the impact on industry and occupational employment resulting from implementation of green technologies, particularly as related to projects funded by, but not limited to, Recovery Act investments. Successful applicants will conduct labor market research to assess and develop estimates of employment (organized by industry and/or occupation) and labor market data indicating green job skills

requirements and occupational characteristics. Such information must be developed for both State and, where feasible, sub-State regions, as well as multi-State regions. In addition, research or tools with potential national impact may be developed through collaborative approaches whereby multiple States apply as a consortium. This focus area is explicitly evaluated in Sections V.A.4.i. of this SGA.

2. Data Dissemination Activities

Applicants will disseminate the research and data produced through these projects and include outreach strategies to inform the public workforce system; educational institutions; community and faith-based organizations that offer workers training, employment, and support services; job seekers; students; labor, business, and industry organizations; and economic development agencies of the occupational skills and growing needs of the energy efficiency and renewable energy industries. This research and data may ultimately be used by these groups and organizations for the purpose of establishing career pathways for green occupations. Publication of data or estimates may be through multiple modes, such as a press release, hardcopy report, PDF document, or Internet Web sites. Information may be provided in different formats for different target audiences. In addition to technical information, the Department strongly encourages the inclusion of career information, competency models, and guidance for job-seekers. Applicants must ensure that dissemination strategies comply with the accessibility requirements of Section 508 of the Rehabilitation Act Amendments of 1998 (29 U.S.C. 794), to ensure information is available to individuals with disabilities. Applicants should also be aware of ETA's Intellectual Property Rights included in Section IV.E. of this SGA. This focus area is explicitly evaluated in Section V.A.4.ii. of this SGA.

3. Related Research Activities

In addition to generating economic data, applicants may propose additional research that provides insight into the State regulatory environment, an understanding of current programs of study and related credentials, and an identification of capital investments in green industries. Projects may include the following State-specific summaries that may be used to inform strategic decision-making by project partners:

i. State-specific summaries of Green Job statutes and regulations;

ii. State-specific summaries of educational resources including post-secondary and higher educational institutions' courses and programs leading to industry-recognized credentials, certifications, or degrees;

iii. State-specific summaries of linkages between identified occupations and related training courses or programs that prepare workers with the skills and competencies required in the occupations;

iv. Identification of projects and their employment and skill needs that are resulting from Recovery Act or other public or private capital investments in renewable energy, energy efficiency, or related efforts (such as weatherization, building retrofit, mass transit infrastructure) that will likely generate green jobs in the State or region;

v. Estimated supply of human capital, including data on workforce demographics, educational attainment levels and existing skills, labor surpluses or shortages of a skilled workforce; and

vi. Development of labor market information tools or systems to estimate or project employment and skill needs at State or sub-State levels, or for defined economic regions.

This focus area is explicitly evaluated in Section V.A.4.iii. of this SGA.

4. Labor Exchange Activities

Applicants will include strategies for posting job openings to online job banks that will be highlighted for easy recognition as green jobs by job seekers. These openings may include jobs created through public or private investments in green and clean technology, as well as jobs created through funding from Energy, HUD, DOT, EPA, and other Recovery Act investments as appropriate. Tracking or data mining of such posted jobs can also be one of the methods used to assess employment activity in these industries. DOL is looking for online tools and other approaches that will encourage local residents to prepare for and apply for jobs being created in their local area. This focus area is explicitly evaluated in Section V.A.4.iv. of this SGA.

II. Award Information

A. Award Amount

The Department is making available approximately $50 million to fund these grants. Individual grant awards to single State applicants will range from $750,000 to $1,250,000. Individual grant awards to consortium applicants will range from $2 to $4 million, contingent upon an adequate justification of proposed project needs and the availability of resources (see Section III for information on eligible applicants). Within the funding ranges specified above, applicants are encouraged to submit budgets for quality projects at whatever funding level is appropriate to the project.

B. Period of Performance

The period of grant performance will be up to 18 months from the date of execution of the grant documents. This performance period includes all necessary implementation and start-up activities. Applicants should plan to fully expend grant funds and submit all reports during the period of performance, while ensuring full transparency and accountability for all expenditures.

III. Eligibility Information

A. Eligible Applicants

The eligible applicant for this grant solicitation is the State Workforce Agency, as States are expected to use workforce and labor market information and data as the foundation on which to build and implement effective workforce development strategies. Each State Workforce Agency is encouraged to submit an application under this competitive program as either a single State or as a partner with a consortium of States. States may only submit one application as a single state. Individual State applications will focus on research and other eligible activities within that State. ETA also encourages collaborative approaches, whereby multiple States apply as a consortium to conduct research that may potentially have a regional, multi-State, or national impact.

Applicants must clearly indicate in the required grant abstract if they are applying as an individual State or as a consortium. Consortium applications must identify each participating State and designate a lead State as the applicant that will have the overall responsibility for administering the grant. The consortium lead State will coordinate reporting activities and must serve as the fiscal agent. Consortium applications will not count against the ''single application'' per State limit for the partnering States, provided that the consortium proposal includes original strategies and is not duplicative of the strategies or deliverables included in the participating States' individual applications. For the purposes of this SGA, the term ''State'' means each of the 50 States of the United States, the District of Columbia, and U.S. territories. For the purposes of this SGA, the term ''U.S. territories'' includes the Commonwealth of Puerto Rico, as well

as the following outlying areas: the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

B. Cost Sharing

Cost sharing or matching funds are not required as a condition for application, but leveraged resources are strongly encouraged.

C. Eligibility Requirements

1. Strategic Partnerships

All applicants must demonstrate that the proposed project will be implemented through a robust strategic partnership that includes:

i. State Labor Market Information and Research entities, which will conduct the research activities discussed in Section I of this SGA. Applicants may propose that data collection and research activities be carried out by other appropriate research organizations such as colleges and universities, working in consultation with the Statewide workforce information entity regarding DOL methods and classification guidelines;

ii. The State Workforce Investment Board, which will partner to ensure that research and data developed by the grant inform planning for training efforts funded through the public workforce investment system; and

iii. Applicants may include additional partners such as employers, industry-related organizations, trade associations, labor organizations, labor-management organizations, colleges and universities, research labs and centers, or community and faith-based organizations with experience in the energy efficiency and renewable energy industries identified in the Supplementary Information: Part B of this SGA . These eligible partners may be included in an application to provide information and a user perspective, consulting with researchers on green jobs and skills, advising on what information is needed or would be useful for their purposes, as well as advising on presentation formats that would be useful to the organization or its constituency in providing training and placement services related to green jobs.

D. Other Grant Specifications

1. Grantee Training

Grantees are required to participate in all DOL/ETA training activities related to orientation, financial management and reporting, performance reporting, product dissemination, and other technical assistance training as appropriate during the life of the grant. These trainings may occur via conference call, webinar, and in-person meetings. For budgeting purposes, Grant recipients should allocate adequate staff time and travel resources to ensure participation at a two-day in-person event.

IV. Application and Submission Information

A. How to Obtain An Application Package

This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission

The proposal will consist of three separate and distinct parts—(I) a cost proposal, (II) a technical proposal, and (III) attachments to the technical proposal. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered. Please note that it is the applicant's responsibility to ensure that the funding amount requested is consistent across all parts and sub-parts of the application.

Part I. The Cost Proposal. The Cost Proposal must include the following four items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). 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 authorized representative of the applicant.
- Applicants must supply their D–U–N–S® Number on the SF 424. All applicants for Federal grant and funding opportunities are required to have a D–U–N–S® Number (Data Universal Numbering System). See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402, and June 27, 2003. The D–U–N–S® Number is a non-indicative, nine-digit number assigned to each business location in the D&B database having a unique, separate, and distinct operation, and is maintained solely by D&B. The D–U–N–S® Number is used by industries and organizations around the world as a global standard for business identification and tracking. If you do not have a D–U–N–S® Number, you can get one for free through the SBS site: *http://smallbusiness.dnb.com/webapp/wcs/stores/servlet/Glossary?fLink=glossary&footerflag=y&storeId=10001&indicator=7.*
- The SF 424A Budget Information Form (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the budget request, explained in detail below.
- Budget Narrative: The budget narrative must provide a description of costs associated with each line item on the SF–424A. It should also include leveraged resources provided to support grant activities. In addition, the applicant should address precisely how the administrative costs support the project goals. The entire Federal grant amount requested should be included on both the SF 424 and SF 424A (not just one year). No leveraged resources should be shown on the SF 424 and SF 424A. Please note that applicants that fail to provide a SF 424, SF 424A, a Dun and Bradstreet number, and a budget narrative will be removed from consideration prior to the technical review process.
- Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found under the Grants.gov, Tips and Resources From Grantors, Department of Labor section at *http://www07.grants.gov/applicants/tips_resources_from_grantors.jsp#13* (also referred to as Faith Based EEO Survey PDF Form).

Part II. The Technical Proposal. The Technical Proposal will demonstrate the applicant's capability to implement the grant project in accordance with the provisions of this solicitation. The guidelines for the content of the Technical Proposal are provided in Part V.A of this SGA. The Technical Proposal is limited to 15 double-spaced single-sided pages with 12-point text font and 1-inch margins. Any materials beyond the 15-page limit will not be read. Applicants should number the Technical Proposal beginning with page number 1. Applicants that do not provide Part II the Technical Proposal of the application will be removed from consideration prior to the technical review process.

Part III. Attachments to the Technical Proposal. In addition to the 15-page Technical Proposal, the applicant must submit an Abstract, not to exceed one

page, summarizing the proposed project including applicant name, project title, a description of the area to be served, and the funding level requested. Consortium applications must also clearly specify the lead State and identify each State that is participating in the project. The abstract will not count against the 15-page limit for the Technical Proposal. Additional materials such as resumes, general letters of support, or letters of commitment are not permitted and will not be read.

Applications may be submitted electronically on Grants.gov or in hardcopy via mail or hand delivery. These processes are described in further detail in Section IV.C. Applicants submitting proposals in hardcopy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hardcopy are also required to provide an identical electronic copy of the proposal on compact disc (CD).

C. Submission Process, Date, Times, and Addresses

The closing date for receipt of applications under this announcement is August 14, 2009. As described below, applications must be received at the address below no later than 4 p.m. (Eastern Time). Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications that do not meet the conditions set forth in this notice will not be considered. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Willie Harris, Grant Officer, Reference SGA/DFA, PY 08–17, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. 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. All professional overnight deliveries must be considered to be hand-delivered and must be received at the designated place by the specified closing date and time.

Applicants may apply online through Grants.gov (*http://www.grants.gov*), however, due to the expected increase in system activity resulting from the American Recovery and Reinvestment Act of 2009, applicants are encouraged to use an alternate method to submit grant applications during this heightened period of demand. While not mandatory, DOL encourages the submission of applications thru professional overnight delivery service.

Applications that are submitted thru Grants.gov must be successfully submitted at *http://www.grants.gov* no later than 4 p.m. (Eastern Time) on August 14, 2009, 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.

The Department strongly recommends 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 strongly recommends 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.

To ensure consideration, the components of the application must be saved as either .doc, .xls or .pdf files. If submitted in any other format, the applicant bears the risk that compatibility or other issues will prevent our ability to consider the application. ETA will attempt to open the document but will not take any additional measures in the event of issues with opening. In such cases, the non-conforming application will not be considered for funding.

Applicants are strongly advised to utilize the plethora of tools and documents, including FAQs, which 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/email_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 4 p.m. (Eastern Time) on the closing date and later successfully validated will be considered. Applicants take a significant risk by waiting until the last day to submit by 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, it was properly addressed, and it was: (a) Sent by U.S. Postal Service mail, postmarked 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) 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. Applicants that do not adhere to the above instructions will be deemed non-responsive. 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.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. 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. Successful and unsuccessful applicants will not be entitled to reimbursement of pre-award costs.

1. Indirect Costs

As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. In order to use 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 grant award. State agencies should already have such agreements in place.

2. Administrative Costs

Under this SGA, an entity that receives a grant to carry out a project or program may not use more than 10 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be direct or 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.

3. Salary and Bonus Limitations

Under Public Law 109–234 and Public Law 111–8, Section 111, none of the funds appropriated in Public Law 111–5 or prior Acts under the heading ''Employment and Training'' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. These limitations also apply to grants funded under this SGA. The salary and bonus limitation does not apply to vendors providing goods and services as defined in OMB Circular A–133. See Training and Employment Guidance Letter number 5–06 for further clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.*

4. Intellectual Property Rights

The 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 rights of 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 are 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.

If applicable, the following Statement must be included on all products developed in whole or in part with grant funds:

This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner.

F. Other Submission Requirements

Withdrawal of Applications: Applications may be withdrawn by written notice at any time before an award is made.

V. Application Review Information

Criterion	Points
1: Statement of Need	15
2: Strategic Partnership and Organizational Capacity	15
3: Strategy and Project Work Plan	35
4: Deliverables	35
Total Points	= 100

A. Evaluation Criteria

Applicants will be evaluated on the completeness and quality of their submissions. A total of 100 points may be awarded under the criteria articulated below. The following review criteria apply to all applications:

1. Statement of Need (15 points)

Applicants must fully demonstrate a clear and specific need for the Federal investment in the proposed activities. Given the rapidly changing economic environments that many States and regions are currently facing, applicants should be as explicit and specific as possible in describing the need for specific sources of data and analysis. Points for this section will be awarded based on the following factors:

i. The applicant provides a description of the need for Federal funding of the proposed project by describing the need for labor market research in the targeted industries, as well as the role of the targeted industries in the State or regional economy (10 points).

ii. The applicant provides a description of the specific energy efficiency and renewable energy industries and occupations within those industries, and/or green occupations within the detailed list of industries provided in the **SUPPLEMENTARY INFORMATION**: Part B of this SGA, on which their proposed labor market research program will focus (5 points).

2. Strategic Partnerships and Organizational Capacity (15 points)

The applicant must demonstrate its capacity to implement the proposed project and the project's management structure as either a single State or consortium proposal. Scoring on this criterion will be based on the following factors:

i. Applicants must provide a comprehensive list of the strategic partners that will be included in the

project. A complete list will include the entities conducting the research and partners who will be consulted to make sure the data and deliverables will meet their information needs (3 points).

• The State Workforce Agency as the project lead. Consortium applicants must list all cooperating States and designate the State that will serve as the project lead;

• State Labor Market Information and Research entities, will conduct the research activities discussed in Section I of this SGA. Applicants may propose that data collection and research activities be carried out by other appropriate research organizations such as colleges and universities, working in consultation with the Statewide workforce information entity regarding DOL methods and classification guidelines;

• The State Workforce Investment Board, will ensure that the research and data results are used to plan green job training efforts being funded through the public workforce investment system; and

• Applicants may include additional partners such as employers, industry-related organizations, trade associations, labor organizations, labor-management organizations, colleges and universities, research labs and centers, or community-based organizations with experience in the energy efficiency and renewable energy industries identified in Section I of this SGA. These eligible partners may be included in an application to provide information and a user perspective, consulting with researchers on green jobs and skills, advising on what information is needed or would be useful for their purposes, as well as advising on presentation formats that would be useful to the organization or its constituency in providing training and placement services related to green jobs.

ii. In order to prioritize regional approaches, five points automatically will be awarded to Consortium applicants only. Single State applicants are not eligible to receive these points. (5 points)

iii. Applicants must provide a complete description of the respective roles of the partners and the strengths of the partnership (3 points)

• Describe the substantive role each of the partners will play in the project. Consortium applicants must describe the substantive contribution of each cooperating State; and

• Describe the extent of collaboration that already exists among the partners, or the steps that partners will take to develop a strong collaboration.

iv. Applicants shall provide a complete description of the organization's capacity to implement the project, its track record in projects similar to the proposed solution, and related activities of the primary partners (4 points).

3. Strategy and Project Work Plan (35 points)

The applicant must describe the proposed strategy in full, including a complete description of the research, data collection, estimation, and dissemination components, as well as any evidence-based research or methods that they considered in designing the strategy. Applicants must also discuss how the project will address the Statement of Need, as well as how the proposed approach draws on sound research methods, practices, and tools. Scoring for this criterion will be based on the following factors:

i. A complete description of the specific methods, approaches, or tools that the project will use to collect and validate labor market data in a timely and accurate manner (15 points).

• Data collection activities must either conform to technical standards and methodologies established by BLS, or provide a sound rationale for the use of an alternative methodology.

• Data collection activities on industries or occupations should be consistent with the frameworks used in the North American Industry Classification System (NAICS), SOC systems, or O*NET system (based on SOC), with specialized occupations identified as needed. Applicants that use alternative standards and methodologies must describe these approaches and demonstrate why existing tools are not sufficient to meet the proposed needs.

• Information technology systems or applications developed with grant funds must adhere to industry-standard, open architecture principles with documentation and software made available for use by other organizations for Federal government purposes.

ii. Address how the proposal will meet the needs identified in the Statement of Need (10 points)

• Demonstrate that the proposed information collected will support identification of training needs for workers and planning for education and training program offerings, including needed credentials or apprenticeship programs; and

• Demonstrate that the proposed information collection will identify the specific skill needs of employers in the areas in which the project is focusing, and how the information will support economic development and planning in a State, a consortium of States, or have national impact.

iii. Provide a comprehensive implementation and dissemination plan with specific goals, objectives, activities, and feasible timelines (10 points)

4. Deliverables (35 points)

The applicant must specify the labor market research and data collection activities that will be developed, identifying the specific deliverables that will be produced and the dissemination strategies and documentation methods that will be used. Applicants are strongly encouraged to include: research or direct data collection activities; research information and data packaged in the form of a report, presentation, or other appropriate format; systems or tools for multiple users such as software applications to automate the collection or processing of data, to project employment or skill demands, or to develop estimates based on data mining of job banks or other resources; and dissemination strategies to serve the populations and needs outlined in this SGA. These strategies should provide information about the number, type, and location of green jobs; the appropriate training for such jobs; and facilitate placement of workers in green jobs. Scoring on this criterion will be based on the following factors:

i. Applicant provides a thorough description of the labor market research to be conducted and the deliverables to be produced, such as estimates of employment by industry and/or occupation, labor market characteristics of occupations or labor force participants, and competency requirements information which may include, but are not limited to the following (10 points):

• Current employment estimates;

• Identification and analysis of job openings;

• Identification of wages and benefits;

• Identification of the energy efficiency and renewable energy businesses and/or green occupations within the detailed list of industries provided in the Supplementary Information: Part B of this SGA;

• Short-term and/or long-term industry and occupational projections of future employment needs;

• Skill or competency requirements of industries or occupations in energy efficiency and renewable energy businesses and/or green occupations within the detailed list of industries provided in the Supplementary Information: Part B of this SGA;

• Demographic characteristics of workers in green jobs, such as gender,

race, age, educational attainment, literacy skills, etc.; and

• Estimates of job vacancies.

ii. Applicants must provide a comprehensive description of all proposed dissemination strategies and formats (10 points).

• Demonstrate that the research and data produced through the project will be sufficient to inform the public workforce system; educational institutions; community and faith-based organizations that offer workers training, employment, and support services; job seekers; students; labor, business, and industry organizations; and economic development agencies of the occupational skills and growing needs of the energy efficiency and renewable energy industries in the identified State or sub-national region.

• Fully describe approaches to disseminate data or estimates through multiple modes, such as a press release, hardcopy report, PDF document, or Internet web sites. Information may be provided in different formats for different target audiences. In addition to technical information, the Department strongly encourages the inclusion of career information, competency models, and guidance for job-seekers.

iii. Applicant identifies all related research deliverables, which may include, but are not limited to the following (5 points):

• State-specific summaries of Green Job statutes and regulations;

• State-specific summaries of educational resources including post secondary and higher educational institutions' courses and programs leading to industry-recognized credentials, certifications, or degrees;

• State-specific summaries of linkages between identified occupations and related training courses or programs that prepare workers with the skills and competencies required in the occupations;

• Identification of projects and their employment and skill needs that are resulting from Recovery Act or other public or private capital investments in renewable energy, energy efficiency, or related efforts (such as weatherization, building retrofit, mass transit infrastructure) that will likely generate green jobs in the State or region;

• Estimated supply of human capital, including data on workforce demographics, educational attainment levels and existing skills, labor surpluses or shortages of a skilled workforce; and

• Development of labor market information tools or systems to estimate or project employment and skill needs at State or sub-State levels, or for defined economic regions.

iv. Applicants provide a comprehensive description of all proposed research deliverables to enhance labor exchange infrastructure, which may include but are not limited to (10 points):

• Development of labor market information tools or systems to estimate or project employment and/or skill needs at State or sub-State levels, or for other defined economic regions;

• Demonstrate strategies to promote the posting of green job openings and resumes to online job banks or through other approaches, including methods to encourage local residents to prepare for and apply for jobs being created in their local area, if applicable to the proposed project design; and

• Tracking or data mining of posted jobs and resumes to assess employment demand and job applicant activity in green jobs.

B. Review and Selection Process

Applications for grants under this solicitation will be accepted after the publication of this announcement and until the closing date. A technical review panel will make a careful evaluation of applications against the criteria. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, depending on the quality of the responses to the required information described in Section V.A. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as 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 government 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.*

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution and non-selected applicants will be notified by mail. Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, DOL/ETA 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.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions:

i. Non-Profit Organizations–OMB Circulars A–122 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

ii. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

iii. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR part 97 (Administrative Requirements).

iv. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 (Cost Principles), and 29 CFR part 95 (Administrative Requirements).

v. All entities must comply with 29 CFR parts 93 and 98, and, where applicable, 29 CFR parts 96 and 99.

vi. 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.

vii. 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.

viii. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

ix. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

x. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or

Activities Receiving Federal Financial Assistance from the Department of Labor.

xi. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

The following administrative standards and provisions may be applicable:

i. The American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, Division A, Title VIII (February 17, 2009).

ii. The Green Jobs Act of 2007, Public Law 110–140, 121 Stat. 1748 (codified at 29 U.S.C. 2916).

iii. The Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 939 (codified as amended at 29 U.S.C. 2801 *et seq.*) and 20 CFR part 667 (General Fiscal and Administrative Rules).

iv. 29 CFR part 29 & 30—Apprenticeship and Equal Employment Opportunity in Apprenticeship and Training; and

v. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

• The Department notes that the Religious Freedom Restoration Act (RFRA), 42 U.S.C. 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.

In accordance with Section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 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.

Except as specifically provided in this SGA, DOL/ETA's acceptance of a proposal and an award of Federal funds to sponsor any programs(s) does not provide a waiver of any grant requirements and/or procedures. For example, the 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/ETA's 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.

2. Special Program Requirements: Evaluation

To measure the impact of grants funded under the SGA, ETA intends to fund one or more independent evaluations. By accepting funding, grantees must agree to participate in such an evaluation, should they be selected to participate. Grantees must agree to make records on participants, employers, and funding available and to provide access to program personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

3. American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) Provisions

Prospective applicants are advised that, if they receive an award, they must comply with all requirements of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5]. Applicants are advised to review the Act and implementing OMB guidance in the development of their proposals. Requirements include, but are not limited to:

i. Adherence to all grant clauses and conditions as they relate to Recovery Act activity.

ii. Prohibition on expenditure of funds for activities at any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

iii. Compliance with the requirements to obtain a D–U–N–S® Number and register with the Central Contractor Registry (CCR). ETA will issue additional guidance related to this requirement shortly.

iv. Submission of required reports in accordance with Section 1512 of the Recovery Act. These reports will be due quarterly within 10 days of the end of the reporting period and are in addition to the ETA required reports addressed in Section VI of this SGA. ETA will issue additional guidance related to these reports and their submission requirements shortly.

Implementing OMB guidance may be found at *http://www.recovery.gov.*

C. Reporting

Quarterly financial reports, quarterly progress reports, and MIS data will be submitted by the grantee electronically. The grantee is required to provide the reports and documents listed below:

1. Quarterly Financial Reports

A Quarterly Financial Status Report (ETA 9130) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 45 days after the end of each calendar year quarter. Grantees must use DOL's On-Line Electronic Reporting System and information and instructions will be provided to grantees.

2. Quarterly Performance Reports

The grantee must submit a quarterly progress report within 45 days after the end of each calendar year quarter. The last quarterly progress report that grantees submit will serve as the grant's Final Performance Report. This report should provide both quarterly and cumulative information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project, and should thoroughly document the training or labor market information approaches utilized by the grantee. DOL will provide grantees with formal guidance regarding data and other information that is required to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements.

3. Record Retention

Applicants should be aware of Federal guidelines on record retention, which require grantees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

VII. Agency Contacts

For further information regarding this SGA, please contact Willie Harris, Grant Officer, Division of Federal Assistance, at (202) 693–3344 (This is not a toll-free number). Applicants should e-mail all technical questions to *harris.willie@dol.gov* and must specifically reference SGA/DFA PY 08–17, and along with question(s), include a contact name, fax and phone number. This announcement is being made available on the ETA Web site at *http://www.doleta.gov/grants* and at *http://www.grants.gov*.

VIII. Additional Resources of Interest to Applicants

A. Other Web-Based Resources

DOL maintains a number of web-based resources that may be of assistance to applicants. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One Stop Career Centers.

B. Industry Competency Models

ETA supports an Industry Competency Model Initiative to promote an understanding of the skill sets and competencies that are essential to an educated and skilled workforce. A competency model is a collection of competencies that taken together define successful performance in a particular work setting. Competency models serve as a starting point for the design and implementation of workforce and talent development programs. To learn about the industry-validated models visit the Competency Model Clearinghouse (CMC) at *http://www.careeronestop.org/CompetencyModel/*. The CMC site also provides tools to build or customize industry models, as well as tools to build career ladder and/or career lattice.

C. Federal Collaboration

DOL encourages other Federal partners to recommend or require, where appropriate, that organizations receiving Recovery Act funding list jobs created with their State public labor exchange. The Department is developing specific strategies to link job listings, training opportunities and placement among programs funded by Departments of Housing and Urban Development, Energy, Education, and the Environmental Protection Agency. Where the grantee is not the public workforce system, they are strongly encouraged to work with the local One Stop Career Center to make these connections.

D. Links to Federal Recovery Sites

For specific information on a range of Federal agency Recovery Act activities and funding opportunities:

- Department of Education: *http://www.ed.gov/policy/gen/leg/recovery/index.html*.
- Department of Energy: *http://www.doe.gov/recovery*.
- Department of Housing and Urban Development: *http://www.hud.gov/recovery*.
- Department of Transportation: *http://www.dot.gov/recovery/*.

Environmental Protection Agency: *http://www.epa.gov/recovery*.

E. Promising Research Approaches

ETA encourages applicants to research promising training approaches in order to inform their proposals. The following list of Web sites provides a starting place for this research, but by no means should be considered a complete list:

- ETA's home site (*http://www.doleta.gov*) and the ETA Research Publication Database (*http://www.doleta.gov/research/keyword.cfm*).
- ETA's knowledge sharing site (*http://www.workforce3one.org*), including the ''workforce solutions'' section that contains over 6,000 additional resources applicants may find valuable in developing workforce strategies and solutions.
- The National Governors Association Center for Best Practices (*http://www.nga.org*).
- The National Association of State Workforce Agencies (*http://www.workforceatm.org*).
- The National Association of Workforce Boards (*http://www.nawb.org*).

IX. 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 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 OMB Desk Officer for ETA, Department of Labor, in the Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the completed application to 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 SGA will be used by DOL 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.

Signed at Washington, DC, this 19th day of June 2009.

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. E9–14930 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

American Recovery and Reinvestment Act of 2009; Notice of Availability of Funds and Solicitation for Grant Applications for Pathways Out of Poverty

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY 08–19.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.275.

DATES: The closing date for receipt of applications under this announcement is September 29, 2009. Applications must be received no later than 4 p.m. Eastern Time. A Webinar for prospective applicants will be held for this grant competition on July 14, 2009 from 2–3:30 p.m. Eastern Time. Access information for the Webinar will be posted on the ETA Web site at: *http://www.workforce3one.org.* The Webinar will be recorded and will be accessible for viewing by July 17, 2009 at 3 p.m. Eastern Time, at the Web site above. It is encouraged but not mandatory that applicants attend or view this recording.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment & Training Administration, Division of Federal Assistance, Attention: Melissa Abdullah, Grants Officer, Reference SGA/DFA PY 08–19, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. For complete ''Application and Submission Information,'' please refer to Section IV.

SUMMARY: The Department of Labor (DOL, or the Department) announces the availability of approximately $150 million in grant funds authorized by the American Recovery and Reinvestment Act of 2009 (the Recovery Act) for projects that provide training and placement services to provide pathways out of poverty and into employment within the industries described in the Supplementary Information, Part B of this SGA. Grantees selected from two separate types of applicants will be funded through this solicitation: (1) National nonprofit entities with networks of local affiliates, coalition members, or other established partners; and (2) local entities. Additional specific eligibility guidance is included in Section III.A, ''Eligible Applicants and Required Partnerships.'' ETA intends to fund grants ranging from approximately $3 to $8 million for national grantees, and grants ranging

from approximately $2 to $4 million for local grantees.

SUPPLEMENTARY INFORMATION:

A. Recovery Act: Competitive Grants for Green Job Training

This section of the SGA provides general background on the American Recovery and Reinvestment Act of 2009 (Recovery Act), the competitive grants funded through the Recovery Act to prepare workers for careers in the energy efficiency and renewable energy industries, and the occupations and industries on which these grants should focus. On February 17, 2009, President Barack Obama signed into law the Recovery Act, through which Congress intended to preserve and create jobs, promote the nation's economic recovery, and assist those most impacted by the recession. Among other funding directed toward the Department, the Recovery Act provides $750 million for a program of competitive grants for worker training and placement in high growth and emerging industries. Of the $750 million allotted for competitive grants, the Recovery Act designates $500 million for projects that prepare workers for careers in the energy efficiency and renewable energy industries described in Section 171(e)(1)(B) of the Workforce Investment Act (WIA). DOL intends to use a portion of the $500 million for providing technical assistance for this program of grants.

The purpose of these green job training grants is to teach workers the skills required in emerging energy efficiency and renewable energy industries. These efforts will lead program participants to job placement while leveraging other Recovery Act investments intended to create jobs and promote economic growth. For additional information about the series of competitive grants for green job training, please refer to Training and Employment Notice (TEN) 44–08 available at *http://www.doleta.gov/Recovery/legislation.cfm.*

B. Green Industries and Occupations

The Department will award grants to workforce development projects that focus on connecting target populations, including workers affected by significant automotive industry restructuring, to career pathways in green industries. Training programs will prepare individuals for careers in any of the seven energy efficiency and renewable energy industries defined in Section 171(e)(1)(B)(ii) of the WIA, which include:

- The energy-efficient building, construction, and retrofit industries;
- The renewable electric power industry;
- The energy efficient and advanced drive train vehicle industry;
- The biofuels industry;
- The deconstruction and materials use industries;
- The energy efficiency assessment industry serving residential, commercial, or industrial sectors; and
- Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

Additionally, the Department is interested in applicants contributing to our understanding of green industries and jobs that clean and enhance our environment. Initial research supported by the Department of Labor, described later in this SGA, shows that there are ''growth, enhanced and emerging'' green occupations across a number of industries. Applicants may propose strategies that train for those occupations from among the following industries: Transportation; green construction; environmental protection; sustainable agriculture including healthy food production; forestry; and recycling and waste reduction (see the O*NET report at *http://www.onetcenter.org/reports/Green.html*). The Department will consider proposals that focus on these occupations within these industries if applicants can offer supporting data demonstrating these are emerging industries which are producing jobs in their communities.

For the purpose of these SGAs, the Department defines energy efficiency and renewable energy as follows. Section 203(b)(2) of the Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 595, defines ''renewable energy'' as ''electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.'' ''Energy efficiency'' can be broadly defined as programs aimed at mitigating the use of energy, reducing harmful emissions, and decreasing overall energy consumption.

The Department of Labor's Bureau of Labor Statistics (BLS) is working to develop a definition for green sectors and jobs, which will be used to ensure that workforce development efforts identify and target these green jobs and their training needs. The Department has also supported occupational research that begins to define green jobs, review sectors impacted by green investments and understand how new green technology and materials will affect occupational requirements. The Occupational Information Network (O*NET) project has drafted a research paper titled, *Greening of the World of Work: Implications for O*NET–SOC and New and Emerging Occupations.* This study reflects three general categories of occupations, based on different consequences of green economy activities and technologies: (1) Existing occupations expected to experience primarily an increase in employment demand; (2) existing occupations with significant change to the work and worker requirements; and (3) new and emerging green occupations. This research may be used as a starting point for identifying green industries and occupations and informing the development of training and job placement programs. For a copy of the O*NET report and a listing of the identified occupations go to *http://www.onetcenter.org/reports/Green.html.*

C. Working With Other Recovery Act Programs

The Recovery Act made funds available to a number of other Federal programs that will impact the creation and expansion of green jobs. DOL is partnering with other Federal agencies to support the creation of jobs by developing a pipeline of skilled workers in the energy efficiency and renewable energy industries. Where possible, ETA encourages applicants to connect their workforce development strategies to other Recovery Act funded projects that create jobs or impact the skill requirements of existing jobs. ETA recommends that applicants review other parts of the Recovery Act, with a focus on the activities funded through the Department of Energy (Energy), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the Department of Education (Education) and others. For additional resources and information about our Federal partners, please see Sections VIII.D and VIII.E.

I. Funding Opportunity Description

Competitive grants under this SGA will fund projects that provide training and placement services to prepare individuals seeking pathways out of poverty for careers in the industries described in the Supplementary Information: Part B of this SGA. Grantees selected from two separate types of applicants will be funded through this solicitation: (1) National nonprofit entities with networks of local

affiliates, coalition members, or other established partners; and (2) local entities. Populations eligible to receive services through grants funded through this SGA include unemployed individuals, high school dropouts, individuals with a criminal record, and disadvantaged individuals living in areas of high poverty. As part of the technical review process, points will be awarded for applications that demonstrate that the proposed project serves areas of high poverty, as described in Section V.A.1.i, ''Statement of Need.''

Successful training programs funded through this SGA will prepare participants for employment within the industries described in Supplementary Information: Part B of this SGA, and will: (1) Include sound recruitment and referral strategies for targeted populations; (2) integrate basic skills and work-readiness training with occupational skills training, as necessary; (3) combine supportive services with training services to help participants overcome barriers to employment, as necessary; and (4) provide training services at times and locations that are easily accessible to targeted populations.

The current economic downturn has impacted individuals in communities across the United States, and has left many workers seeking to transition into new industries or new careers. For individuals who are living below or near the poverty level, the current economic downturn has created a unique set of challenges, and has heightened the need to find pathways out of poverty and into employment. These individuals may lack basic literacy and job readiness skills, and they may face other barriers to employment, such as the need for childcare or transportation.

For individuals who face immense difficulties in meeting their basic needs, finding employment opportunities in today's labor market presents many obstacles. In order to succeed, these individuals need to not only acquire the basic skills that will provide the foundation for their employability, but they also need to learn entry-level technical skills and need access to support systems that allow them to meet the needs of their families while they concentrate on gaining new competencies.

To assist individuals in meeting these challenges, projects funded through this SGA will integrate training and supportive services into cohesive programs that will help target populations find pathways out of poverty and into economic self-sufficiency, through employment in the energy efficiency and renewable energy industries. Despite the economic downturn, these ''green'' industries present many potential opportunities for individuals to learn new skills and competencies, gain employment, and advance along career pathways.

National and local applicants are expected to implement project activities at the community level. Projects in each community served must be implemented by a strategic partnership that includes, at a minimum: nonprofit organizations, such as community and faith-based organizations; the public workforce investment system; the education and training community; labor organizations; and employers and industry-related organizations. By including all of these types of organizations in a comprehensive partnership, applicants can ensure that they are maximizing available resources for each project, and that individual participants within the project can access an array of training and supportive services that they need to successfully complete training, overcome barriers to employment, obtain jobs and advance along career pathways.

II. Award Information

A. Award Amount

Under this SGA, ETA intends to award approximately $150 million in grant funds. ETA intends to fund grants ranging from approximately $3 to $8 million for national grantees, and grants ranging from approximately $2 to $4 million for local grantees. ETA does not expect to fund any project for less than $2 million. However, this does not preclude funding grants at a lower amount based on the type and the number of quality submissions. ETA will not fund projects for more than $8 million, and applications requesting more than $8 million will be considered nonresponsive. Within the funding ranges specified above, applicants are encouraged to submit proposals for quality projects at whatever funding level is appropriate to the project.

B. Period of Performance

The period of grant performance will be up to 24 months from the date of execution of the grant documents. This performance period includes all necessary implementation and start-up activities as well as participant follow-up. The Department intends that all grantees implement the training and placement programs funded under this SGA as soon as possible. Further, applicants should plan to fully expend grant funds during the period of performance, while ensuring full transparency and accountability for all expenditures.

III. Eligibility Information

A. Eligible Applicants and Required Partnerships

All applicants must have experience serving at least one of the following groups: unemployed individuals, high school dropouts, individuals with criminal records, and/or disadvantaged individuals within areas of high poverty. To be eligible to apply for these grants, applicants must fall into one of two categories: (1) National entities; or (2) local entities. These two applicant types will compete separately for funding under this SGA. ETA expects to publish two SGAs during the summer of 2009: Energy Training Partnerships SGA [SGA/DFA PY 08–18] and the Pathways Out of Poverty SGA [SGA/DFA PY 08–19]. ETA will not fund any one organization as a grantee more than once through these two SGAs. An applicant may choose to submit an application for the Energy Training Partnerships SGA [SGA/DFA PY 08–18] and the Pathways Out of Poverty SGA [SGA/DFA PY 08–19]; however, DOL does not encourage applicants to submit applications to both competitions. An organization that submits an application for one SGA is not precluded from participating as a suggested or required partner in applications submitted in response to the other SGA. Finally, an organization may not submit multiple applications in response to any one SGA. The applicant categories for this SGA, along with the required partnerships for each, are defined below.

1. National Entities

For the purposes of this SGA, applicants qualify as national entities if they are private nonprofit organizations that have the following characteristics: (a) They deliver services through networks of local affiliates, coalition members, or other established partners (such as a network of affiliated community or faith-based organizations); and (b) their local affiliates, coalition members, or other established partners have the ability to provide services in 4 or more States. These entities, along with their partners, are expected to implement projects in multiple communities across the country. In order to apply as a national entity, an applicant must propose a project that serves communities (see Section III.C.2 for the definition of community) located in at least 2 States,

with a minimum of 1 community located in each State, and a range of 3–7 total communities served. (For the purposes of this SGA, the term ''State'' means each of the 50 States of the United States, the District of Columbia, and U.S. territories as defined in Section VI.B.2.iv). By serving a range of 3–7 total communities, national applicants can ensure that each community has adequate funding to implement training and job placement programs. National entities will be required to fund sub-grants or sub-contracts in each designated community, through which the local affiliates, coalition members, or other established partners will implement each project in collaboration with the required partners detailed in Section III.A.3.i.

2. Local Entities

For the purposes of this SGA, applicants qualify as local entities if they are public organizations (such as community colleges or workforce investment boards) or private nonprofit organizations (such as community or faith-based organizations) whose service area is limited to a single sub-State geographic area, such as a neighborhood, city, county, sub-State region, or interstate region comprised of multiple sub-State regions (such as Kansas City). In order to apply as a local entity, an applicant must propose a project that serves one single community (see Section III.C.2 for the definition of community). Local entities must implement the project in collaboration with the required partners detailed in Section III.A.3.i. A local entity that receives an award under this SGA may not receive sub-grant or sub-contract funding through a grant awarded to a national entity under this SGA.

3. Strategic Partnerships

To be eligible for funding under this SGA, national and local applicants must demonstrate that the proposed project will be implemented by a robust strategic partnership.

i. Required Partners

In each community served, the strategic partnership must include at least one entity from each of the following five categories:

- Nonprofit organizations, such as community or faith-based organizations, which have direct access to the targeted populations;
- The public workforce investment system, such as local Workforce Investment Boards and their One Stop systems;
- The education and training community, which includes the continuum of education from secondary schools to community and technical colleges, four-year colleges and universities, apprenticeship programs, technical and vocational training institutions, and other education and training entities;
- Public and private employers and industry-related organizations, including those involved in the industries identified in the Supplementary Information: Part B of this SGA; and
- Labor organizations, including but not limited to labor unions and labor-management organizations that represent the interests of workers in energy efficiency or renewable energy industries.

Applicants that include a labor-management organization as a partner will satisfy the requirement for both the labor organization and the employer/industry-related organization partners.

By including all of these types of organizations in a comprehensive partnership, applicants can ensure that they are maximizing available resources and organizational expertise for each project, and that individual participants within the project have all of the support that they need to successfully complete training, overcome barriers to employment, and obtain jobs and advance along career ladders. These partners can contribute a wide array of knowledge and activities to each project, and should work together to ensure that they leverage each other's expertise and resources. Education and training providers should partner with labor organizations and industry-related organizations to ensure that education and training programs address the skills required for the targeted industries, lead to industry-recognized certificates or credentials if appropriate, and ensure that the training strategies reflect the needs of both workers and employers. Nonprofit organizations can provide a range of services and activities to support local projects, such as delivering supportive services to participants and ensuring that these services are integrated with the education and training strategies. The role of the workforce investment system may include identifying, assessing, and referring candidates for training, connecting and placing participants with employers that have existing job openings, and providing supportive services to support the employment and training needs of participants.

ii. Other Partners

In addition to the required partners listed in Section III.A.3.i, applicants are strongly encouraged to include other partners that can provide resources or expertise to the project. These organizations could include:

- Public Housing Agencies implementing programs through the Department of Housing and Urban Development;
- Community Action Agencies implementing the Department of Energy's Weatherization Assistance Program;
- Organizations implementing projects funded by the Recovery Act that will create or support jobs in the energy efficiency or renewable energy industries;
- National, State, and local foundations, which focus on assisting participants served through the project; and
- State and local social service agencies that provide supportive services to participants served through the project.

B. Cost Sharing

Cost sharing or matching funds are not required as a condition for application, but leveraged resources are strongly encouraged and may affect the applicant's score in section V.A.2 of the evaluation criteria.

C. Other Eligibility Requirements

1. Proposed Activities

The purpose of this SGA is to fund projects providing training, education, and job placement assistance for individuals seeking pathways out of poverty and into employment opportunities in the industries described in the Supplementary Information: Part B of this SGA.

i. Characteristics of Training Activities

All projects must lead to employment for program participants, and must incorporate training activities that:

- Address skills and competencies demanded by the industries described in the Supplementary Information: Part B of this SGA;
- Support participants' advancement along a defined career pathway, such as an articulated career ladder and/or career lattice, if such a pathway exists in the targeted industry or industries;
- Result in an industry-recognized degree or certificate (see definition in Section VI.B.2.iii) that indicates a level of mastery and competence in a given field or function, where such a degree or certificate exists. The degree or certificate awarded to participants

should be based on the type of training provided through the grant and the requirements of the targeted occupation, and should be selected based on consultations with employer and labor partners;

• Take place at times and locations that are convenient and easily accessible for the targeted populations;

• As appropriate, integrate occupational training with basic skills training to ensure that participants have the foundational skills necessary to attain and retain employment; and

• As appropriate, integrate training activities with supportive services to ensure that participants have the necessary support to overcome barriers to employment.

In implementing projects that meet the requirements outlined above, applicants may propose a wide range of activities. When designing the proposed activities, DOL encourages applicants to look at program models with previous success in serving disadvantaged individuals, especially those with strong program evaluations showing positive impacts on participants. Promising models include the following:

• Strategies that integrate academic instruction with occupational skills training in a specific career field have shown promising employment and earnings outcomes for low-income young adults. Applicants who are proposing to serve low-income young adults and high school dropouts should consider program models that strongly link opportunities to improve basic literacy and mathematics skills and obtain a high school diploma or GED with work-based learning in the targeted industries.

• Programs for ex-offenders which provide integrated services both before and after release from prison or jail have had positive impacts on employment outcomes.

• Providing on-the-job training with a specific employer who agrees to hire individuals pending successful completion of the training has been an effective way for some programs to place disadvantaged individuals into employment.

ii. Allowable Activities

Allowable activities under this SGA include:

• Classroom occupational training;

• On-the-job training activities, including activities related to transitional jobs programs, that lead to permanent employment;

• The development and implementation of registered apprenticeship and pre-apprenticeship programs;

• Internship programs;

• Customized training;

• Basic skills training, such as adult basic education, English as a second language (ESL), and job readiness training;

• Initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

• Job search and placement assistance, and where appropriate, career counseling;

• Case management services;

• Supportive services that will allow individuals to participate in the training provided through the grant; and

• Updating curriculum to support direct training provided through the grant. Some grants funded under this SGA may produce tangible products and deliverables, such as updates to existing curriculum and outreach materials. Curriculum development is only appropriate if this curriculum is used in direct training and/or education activities provided through this grant and is necessary to achieve the training and employment outcomes proposed for the grant. (See Section IV.E.4 for information regarding intellectual property rights.)

2. Communities To Be Served

Applicants must identify the community or communities that will be served by the grant. National entities must identify targeted communities to be served by their local affiliates, coalition members, or other established partners in at least 2 States, with a minimum of 1 community located in each State, and a range of 3–7 total communities served. Local entities must identify a single community.

For the purposes of this SGA, a community is defined as a geographic area located within one or more contiguous Public Use Microdata Areas (PUMAs), which are geographic statistical areas designated by the U.S. Census Bureau (see Section VIII.A for detailed information and links to Census poverty data). The Department expects that applicants will focus their projects on a geographic portion of a PUMA in order to most effectively serve the specific populations targeted by the project. For urban applications, the Department expects that designated communities will be neighborhoods within cities rather than entire cities. For rural applications, the Department expects that designated communities will be 1–3 entire counties, or American Indian Areas, Alaska Native Areas, or Hawaiian Homelands. There is no requirement for the minimum or maximum size of populations in the designated communities, but the Department anticipates that the communities will have populations that range from 10,000 to 100,000 people.

In order to ensure that high poverty areas receive priority for grant awards, points will be awarded in the technical review process (see Section V.A.1.i for the relevant evaluation criterion) for applications that demonstrate that each Public Use Microdata Area (or other appropriate statistical area for American Indian Areas, Alaska Native Areas, or Hawaiian Homelands, or outlying areas) served by the project has a poverty rate of at least 15%, as demonstrated by data from the Poverty Data.xls spreadsheet available for download at *http://www.workforce3one.org/view/2000916359251042484/info.*

D. Other Grant Specifications

1. Participants Eligible to Receive Training

This SGA addresses the priorities of both the Recovery Act and the Green Jobs Act by funding projects that provide education and training, job placement, and supportive services to individuals who are seeking pathways out of poverty and into employment in the industries described in the Supplementary Information: Part B of this SGA. Accordingly, projects funded through this solicitation must serve only individuals who are at least 18 years of age and fall into one or more of the following categories:

i. Unemployed individuals;

ii. High school dropouts;

iii. Individuals with a criminal record; and

iv. Disadvantaged individuals within areas of high poverty.

For specific definitions for these target populations, applicants must refer to Section VI.B.

Projects funded through this solicitation must serve individuals who live within the community(ies) to be served (see Section III.C.2 for the definition of community), except that up to 10% of the individuals served may live outside of the community(ies) if the grantee determines that these individuals live in areas of high poverty, which is defined as a PUMA (or other appropriate statistical area) with a poverty rate of 15% or greater.

2. Veterans Priority

The Jobs for Veterans Act (Pub. L. 107–288) provides priority of service to 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 DOL. Grantees are required to provide priority of services

for veterans and eligible spouses pursuant to 20 CFR part 1010, the regulations implementing priority of service for veterans and eligible spouses in Department of Labor job training programs under the Jobs for Veterans Act published at 73 FR 78132 on December 19, 2008. In circumstances where a grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that grant recipients give the veteran priority of service by admitting him or her into the program. To obtain priority of service a veteran must meet the program's eligibility requirements. Grantees must comply with DOL guidance on veterans' priority. Currently, ETA Training and Employment Guidance Letter (TEGL) No. 5–03 (September 16, 2003) provides general guidance on the scope of the Job for Veterans Act and its effect on current 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.*

3. Grantee Training

Grantees are required to participate in all ETA training activities related to orientation, financial management and reporting, performance reporting, product dissemination, and other technical assistance training as appropriate during the life of the grant. These trainings may occur via conference call, webinar, and in-person meetings. Applicants should include costs for two staff to attend two trainings that are each two full days in Washington, DC during the grant's period of performance.

IV. Application and Submission Information

A. How To Obtain an Application Package

This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission

The proposal will consist of three separate and distinct parts: (I) A cost proposal; (II) a technical proposal; and (III) attachments to the technical proposal. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered. Please note that it is the applicant's responsibility to ensure that the funding amount requested is consistent across all parts and sub-parts of the application.

Part I. The Cost Proposal. The Cost Proposal must include the following four items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). 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 authorized representative of the applicant.
- Applicants must supply their D–U–N–S® Number on the SF 424. All applicants for Federal grant and funding opportunities are required to have a D–U–N–S® (Data Universal Numbering System) Number. See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402, Jun. 27, 2003. The D–U–N–S® Number is a non-indicative, nine-digit number assigned to each business location in the D&B database having a unique, separate, and distinct operation, and is maintained solely by D&B. The D&B D–U–N–S® Number is used by industries and organizations around the world as a global standard for business identification and tracking. If you do not have a D–U–N–S® Number, you can get one for free through the SBS site: *http://smallbusiness.dnb.com/webapp/wcs/stores/servlet/Glossary?fLink=glossary&footerflag=y&storeId=10001&indicator=7.*
- The SF 424A Budget Information Form (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request, explained in detail below.
- Budget Narrative: The budget narrative must provide a description of costs associated with each line item on the SF–424A. It should also include leveraged resources provided to support grant activities. In addition, the applicant should address precisely how the administrative costs support the project goals. The entire Federal grant amount requested should be included on both the SF 424 and SF 424A (not just one year). No leveraged resources should be shown on the SF 424 and SF 424A.

Please note that applicants that fail to provide a SF 424, SF 424A, a D–U–N–S® Number, and a budget narrative will be removed from consideration prior to the technical review process.

- Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found under the Grants.gov, Tips and Resources From Grantors, Department of Labor section at *http://www07.grants.gov/applicants/tips_resources_from_grantors.jsp#13* (also referred to as Faith Based EEO Survey PDF Form).

Part II. The Technical Proposal. The Technical Proposal demonstrates the applicant's capability to implement the grant project in accordance with the provisions of this solicitation. The guidelines for the content of the Technical Proposal are provided in Part V.A. of this SGA. The Technical Proposal is limited to 25 double-spaced single-sided pages with 12 point text font and 1 inch margins. Any materials beyond the 25-page limit will not be read. Applicants should number the Technical Proposal beginning with page number 1. Applicants that do not provide Part II, the Technical Proposal of the application will be removed from consideration prior to the technical review process.

Part III. Attachments to the Technical Proposal. In addition to the 25-page Technical Proposal, the applicant must submit a letter or letters of commitment signed by all required partners for each community served (preferably one letter for each community, co-signed by all required partners for that community) that describes the roles and responsibilities of each required partner. Commitment letters must accompany the application. Applicants should not send letters of commitment separately to ETA because these letters will be tracked through a different system and will not be attached to the application for review. ETA will not accept or review general letters of support submitted by organizations or individuals that are not partners in the proposed project and that do not directly identify the specific commitment or roles of the project partners. The applicant must provide an Abstract, not to exceed one page, summarizing the proposed project including applicant name; applicant category (national entity or local entity); project title; identification of the community or communities to be served, including whether the community(ies) are located in urban, suburban, or rural areas; and the funding level requested. These additional materials (commitment

letters and one-page abstract) do not count against the 25-page limit for the Technical Proposal, but may not exceed 20 pages. Any additional materials beyond the 20-page limit will not be read.

Applications may be submitted electronically on Grants.gov or in hardcopy by mail or hand delivery. These processes are described in further detail in Section IV.C. Applicants submitting proposals in hardcopy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hardcopy are also required to provide an identical electronic copy of the proposal on compact disc (CD).

C. Submission Process, Date, Times, and Addresses

The closing date for receipt of applications under this announcement is September 29, 2009. Applications must be received at the address below no later than 4 p.m. Eastern Time. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications that do not meet the conditions set forth in this notice will not be considered. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Donna Kelly, Grant Officer, Reference SGA/DFA, PY 08–19, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. 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. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified closing date and time.

Applicants may apply online through Grants.gov (*http://www.grants.gov*), however, due to the expected increase in system activity resulting from the American Recovery and Reinvestment Act of 2009, applicants are encouraged to use an alternate method to submit grant applications during this heightened period of demand. While not mandatory, DOL encourages the submission of applications through professional overnight delivery service.

Applications that are submitted through Grants.gov must be successfully submitted at *http://www.grants.gov* no later than 4 p.m. Eastern Time on September 29, 2009, 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.

The Department strongly recommends 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. The Department strongly recommends 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.

To ensure consideration, the components of the application must be saved as either .doc, .xls or .pdf files. If submitted in any other format, the applicant bears the risk that compatibility or other issues will prevent our ability to consider the application. ETA will attempt to open the document but will not take any additional measures in the event of issues with opening. In such cases, the non-conforming application will not be considered for funding.

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 4 p.m. Eastern Time on the closing date and successfully validated will be considered. Applicants take a significant risk by waiting to the last day to submit by 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, it was properly addressed, and it was: (a) Sent by U.S. Postal Service mail, postmarked 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) 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.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. 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. Successful and unsuccessful applicants will not be entitled to reimbursement of pre-award costs.

1. Indirect Costs

As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. In order to use 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 grant award.

2. Administrative Costs

Under this SGA, an entity that receives a grant to carry out a project or program may not use more than 10 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be direct or 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.

3. Salary and Bonus Limitations

Under Public Law 109–234 and Public Law 111–8, Section 111, none of the funds appropriated in Public Law 111–5 or prior Acts under the heading ''Employment and Training'' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. These limitations also apply to grants funded under this SGA. The salary and bonus limitation does not apply to vendors providing goods and services as defined in OMB Circular A–133. See Training and Employment Guidance Letter number 5–06 for further clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.*

4. Intellectual Property Rights

The 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 rights of 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 are 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.

If applicable, grantees must include the following language on all products developed in whole or in part with grant funds:

''This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner.''

F. Use of Funds for Supportive Services

Supportive services for adults and dislocated workers are defined at WIA sections 101(46) and 134(e)(2) and (3). They include services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in training activities funded through this grant. Grantees may only use grant funds to provide these services to individuals who are participating in training services provided through the grant, who are unable to obtain services through other programs providing such services, and when such services are necessary to enable individuals to participate in these training activities. Grantees should ensure that their use of grant funds on supportive services is consistent with their established written policy regarding the provision of supportive services. Grantees may use no more than 5% of their grant funds on these services. However, to support the employment and training needs of the targeted populations, ETA encourages grantees to leverage other sources of funding for supportive services, including WIA Adult formula funds provided under the Recovery Act.

G. Other Submission Requirements

Withdrawal of Applications: Applications may be withdrawn by written notice at any time before an award is made.

V. Application Review Information

A. Evaluation Criteria

This section identifies and describes the criteria that will be used to evaluate the grant proposals. These criteria and point values are:

Criterion	Points
1. Statement of Need	20
2. Project Management and Organizational Capacity	15
3. Strategy and Project Work Plan	45
4. Outcomes and Deliverables	20

1. Statement of Need (20 Points)

Applicants must fully demonstrate a clear and specific need for the Federal investment in the proposed activities. It is critical throughout this section that applicants are as explicit and specific as possible in citing sources of data and analysis. Points for this section will be awarded based on the following factors:

i. Demonstration of Poverty Rate for Each Community Served (0 or 10 Points)

The applicant identifies the Public Use Microdata Area (PUMA) where each community to be served is located, and provides, for each PUMA, the poverty rate that is listed in the Poverty Data spreadsheet available for download at *http://www.workforce3one.org/view/2000916359251042484/info.* Applicants will receive 10 points for this subsection if the Poverty Data spreadsheet lists a

poverty rate of 15% or more for each PUMA to be served. Otherwise, applicants will receive 0 points for this subsection.

For more information about how to determine the appropriate PUMA, please see the instructions in Section VIII.A. Note that applicants proposing to serve American Indian Areas, Alaska Native Areas, or Hawaiian Homelands may use data from the appropriate statistical areas listed on Tab 2 of the Poverty Data spreadsheet, instead of PUMA-based data listed on Tab 1. Applicants proposing to serve outlying areas should use the data listed on Tab 3 of the Poverty Data spreadsheet. Applicants proposing to serve PUMAs, American Indian Areas, Alaska Native Areas, Hawaiian Homelands, or outlying areas that are not listed in the Poverty Data spreadsheet should utilize, and cite, another appropriate data source for poverty rate information. If the data for the community to be served is on the spreadsheet, that data must be used.

ii. Overview of Current Economy and Workforce (10 Points)

The applicant clearly and fully demonstrates the need for training in each designated community by describing the overall economy and workforce needs for each community. Given the rapidly changing economic conditions that many States and regions are currently facing, applicants should utilize the most current and relevant sources of labor market data available. Points for this subsection will be awarded based on the following factors:

- The applicant fully describes the specific community(ies) that the project will serve, and provides a comprehensive description of the workforce needs in each community, including the unemployment rate(s) and a discussion of any significant layoffs in specific industries, as well as estimates of the number of individuals in each community who are: (a) Unemployed individuals; (b) high school dropouts; (c) individuals with a criminal record; and (d) disadvantaged individuals within areas of high poverty. See Section VI.B.2.iv for definitions of these terms.
- The applicant should provide strong evidence of job seeker need for training by identifying one or more of the populations listed above that the project will target, providing a general description of the current level of skills and educational attainment of those populations, and identifying the specific training needs of those populations.
- The applicant fully identifies other barriers to employment faced by the targeted populations, such as lack of child care and access to transportation.

Applicants may draw from a variety of resources for supporting data, which include but are not limited to: Traditional labor market information, such as projections; industry data; data from trade associations or direct information from the regional industry; and information on the regional economy and other transactional data, such as job vacancies, that are available.

2. Project Management and Organizational Capacity (15 Points)

Applicants must fully describe the capacity of the applicant, its required partners and, if applicable, its local affiliates, coalition members, or other established partners, to effectively staff the proposed initiative. The application must also fully describe the applicant's fiscal, administrative, and performance management capacity to implement the key components of this project, and the track record of the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, in implementing projects of similar focus, size, and scope.

Scoring under this criterion will be based on the extent to which applicants provide evidence of the following:

i. Staff Capacity (5 Points)

Applicants should provide strong evidence that the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, will have the staff capacity to implement the proposed initiative, including the capacity in each designated community. Discussion should include:

- The proposed staffing pattern for the project, including program management and administrative staff, and program staff involved in each local project, which demonstrates that the role(s) and time commitment of the proposed staff are sufficient to ensure proper direction, management, implementation, and timely completion of each project.
- The applicant must demonstrate that the qualifications and level of experience of the proposed project manager in each community served are sufficient to ensure proper management of the project, where such a project manager has been identified. Where no project manager is identified, applicants should discuss the minimum qualifications and level of experience that will be required of the position.

ii. Fiscal, Administrative, and Performance Management Capacity (5 Points)

Strong evidence that the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, have the fiscal, administrative, and performance management capacity to effectively administer this grant. Discussion should include:

- A full description of the applicant's capacity, including its systems, processes, and administrative controls that will enable it to comply with Federal rules and regulations related to the grant's fiscal and administrative requirements.
- A full description of the applicant's capacity, including its systems and processes that will support the grant's performance management requirements through effective tracking of performance outcomes. Applicants should include an explanation of the applicant's processes to collect and manage data in a way that allows for accurate and timely reporting of performance outcomes. Applicants may cite relationships with the public workforce system, as appropriate, to assist with performance reporting, and should describe access to specific data management software and/or resources for performance reporting.

iii. Experience of Applicant (5 Points)

The applicant's demonstrated experience leading or participating significantly in a comprehensive partnership, and the demonstrated experience of the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, in implementing and operating training, education, and job placement initiatives of similar focus, size and scope. Discussion should include:

- Specific examples of the applicant's experience in leading or participating significantly in a partnership that included a wide range of stakeholders, including a description of the programmatic goals of the project, and a demonstration of the results achieved by that project.
- Specific examples of the applicant's track record administering Federal, State, and/or local grants, including the programmatic goals and results from these projects; and
- A description of the experience of the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, in Federal, State, and/or local projects providing education, training,

and placement services to the specific populations noted in Section III.C.3 (unemployed individuals, high school dropouts, individuals with criminal records, and disadvantaged individuals within areas of high poverty), including the programmatic goals and results of the projects.

3. Strategy and Project Work Plan (45 Points)

The applicant should provide a complete, very clear explanation of its proposed strategy and its plans to implement it. The applicant must describe the proposed workforce development strategy in full, explain how the proposed training addresses the applicant's statement of need, and demonstrate how the proposed project will expeditiously and effectively deliver training. ETA is interested in applicants describing any evidence-based research that they considered in designing the strategy. The applicant must present a comprehensive work plan for the project, following the format provided later in this section. Points for this criterion will be awarded for the following factors:

i. Addressing Conditions Described in the Statement of Need, and Targeted Industries and Occupations (5 Points)

- The applicant summarizes the proposed strategy.
- The applicant explains how the proposed project comprehensively addresses the needs and challenges of the targeted populations laid out in the Statement of Need.
- The applicant provides a complete description of the targeted industries and occupations within those industries that the proposed project will focus on, including:
- The specific energy industry(ies) targeted by the project, and an explanation of how the targeted industry(ies) meet the requirements identified in the Supplementary Information: Part B of this SGA;
- The specific occupation in the targeted industries for which participants will be trained, including the work performed by that occupation and its major tasks; and
- The specific knowledge, skills, and/or abilities required by the occupation.
- The applicant fully describes the employment needs of the targeted industries and occupations in the designated community(ies), including: total current and projected employment in the industry; total current and projected employment in the targeted occupations; and the current hiring needs of specific employers and how job seekers served through the project will be placed in those jobs.

ii. Roles and Level of Commitment of Project Partners (10 points)

Scoring on this section will be based on the extent to which the applicant fully demonstrates the breadth and depth of their partners' commitment to the proposed project, by addressing the following factors:

- The applicant fully describes the specific roles of each of the project partners in each community, including training, supportive services, expertise, and/or other activities that partners will contribute to the project.
- The applicant demonstrates a strong partnership by providing, for each community served, the applicant must submit a letter or letters of commitment signed by all required partners (preferably one letter for each community, co-signed by all required partners for that community) that describes the roles, responsibilities, and resources committed by each partner. (See Section IV.B for instructions on submitting letters of commitment).

iii. Proposed Recruitment, Training, Placement, and Retention Strategies (10 points)

- Recruitment: The applicant must provide a comprehensive outreach and recruitment strategy that defines a clear process for finding and referring workers to the training programs. The applicant must clearly identify the populations that will be targeted by the project, and explain how the proposed strategy will enable the project to effectively recruit those populations.
- Training: DOL encourages applicants to base their training strategies on program models that have shown promising outcomes for serving disadvantaged populations. The applicant must provide a detailed explanation of the proposed training activities that describes how the project will comprehensively address the training needs of the targeted populations, including a discussion of how the design of the training activities will account for the current skill level, age, or level of work experience of the targeted populations. The applicant must also describe how the project will address barriers to employment by combining training services with supportive services, such as child care or transportation, as appropriate for each targeted population. The applicant must demonstrate that the project will place participants on a pathway to economic self-sufficiency; that training will focus on the specific industries and occupations it has proposed to target and focuses on skills and competencies demanded by the selected industries and occupations; the project will integrate basic skills training where appropriate, and lead to an appropriate industry-recognized degree or certificate (if such a degree or certificate exists), and employment. Where there is no standardized industry-recognized degree or certificate in place, applicants should provide evidence that such a degree or certificate does not exist and the search they conducted for the degree or certificate. Applicants that provide this evidence will not lose points in the evaluation process.
- Placement: The applicant must provide a clear strategy for placing individuals into employment. The applicant should describe the methods for engaging employers, identifying specific job needs, and referring participants to employers. Wherever possible, the applicant should identify specific employers that indicate plans to hire project participants that complete training.
- Retention: The applicant must provide a clear strategy for job retention. This should include strategies for engaging employers, as well as for identifying the barriers to retention that participants face after placement and for providing them with supportive services to address these barriers.

iv. Leveraged Resources (5 Points)

Applicants should clearly and fully describe any funds and other resources that will be leveraged to support grant activities and how these funds and other resources will be used to contribute to the proposed outcomes for the project, including any leveraged resources related to the provision of supportive services for program participants. This includes funds and other resources leveraged from businesses, labor organizations, education and training providers, and/or Federal, state, and local government programs. Applicants will be scored based on the extent to which they fully demonstrate the amount of leveraged resources provided, the type(s) of leveraged resources provided, the strength of commitment to provide these resources (such as in commitment letters), the breadth and depth of the resources provided, and how well these resources support the proposed grant activities.

v. Project Work Plan (15 Points)

Applicants can earn up to 15 points based on the presentation of a comprehensive project work plan. Factors considered in evaluating the project work plan will include: (1) The presentation of a coherent plan that

demonstrates the applicant's complete understanding of all the activities, responsibilities, and costs required to implement each phase of the project and achieve projected outcomes; (2) the demonstrated feasibility and reasonableness of the timeline for accomplishing all necessary implementation activities, including the ability to expeditiously begin training; and, (3) the extent to which the budget aligns with the proposed work plan and is justified with respect to the adequacy and reasonableness of resources requested. Applicants must present this work plan in a table that includes the following categories:

- Project Phase: Lay out the timeline in five phases—Startup, Recruitment, Training, Placement, and Retention.
- Activities: Identify the major activities required to implement each phase of the project. For each activity, include the following information: (a) Start Date; (b) End Date; (c) Project partner(s) that will be primarily responsible for performing each activity; (d) Key tasks associated with each activity; (e) At key project milestones, list the target dates and associated outcomes projected for recruitment, training, placement, and retention activities; and (f) As accurately as possible, list the sub-total budget dollar amount associated with each activity.

4. Outcomes and Deliverables (20 points)

Applicants must demonstrate a results-oriented approach to managing and operating their project by providing projections for all applicable outcome categories relevant to measuring the success or impact of the project, describing the products and deliverables that will be produced as a result of the grant activities, and fully demonstrating the appropriateness and feasibility of achieving these results. Applicants must include projected outcomes, which will be used as goals for the grant. Applicants may earn up to 20 points by comprehensively addressing each of the areas outlined below.

i. Projected Performance Outcomes (5 Points)

Applicants must provide projections and track outcomes for each of the following outcome categories for all participants served with grant funds:

- Total participants served;
- Total number of participants beginning education/training activities;
- Total number of participants that receive basic education services;
- Total number of participants that receive supportive services funded by the grant;
- Total number of participants completing education/training activities;
- Total number of participants that complete education/training activities that receive a degree/certificate;
- Total number of participants that complete education/training activities that are placed into unsubsidized employment;
- Total number of participants that complete education/training activities that are placed into training-related unsubsidized employment; and
- Total number of participants placed in unsubsidized employment who retain an employed status in the first and second quarters following initial placement.

Please note that applicants will need to be prepared to collect participant-level data on individuals who receive training and other services provided through the grant. These data should be the basis for reporting against the outcomes listed above, and may be required for reporting on other employment-related outcomes in the future. ETA will provide appropriate technical assistance to the grantees in collecting these data, including the development of a participant tracking system for the grantees. Please note that in some cases, the data requested below may require appropriate partnerships with state and local workforce investment system entities.

Applicants will be required to collect participants' Social Security numbers as part of individual level data collection. Social security numbers will be used for the calculation of employment history and program outcomes. It is anticipated that by collecting Social Security numbers of participants, ETA will be able to calculate most employment outcomes administratively through the use of Unemployment Insurance wage record information. Applicants must ensure that Social Security numbers will be maintained in a secure and confidential manner.

Applicants should be prepared to collect and report participant-level data from the following categories:

- Demographic and socioeconomic characteristics
- Employment history
- Services provided
- Outcomes achieved

Applicants should describe their capacity to collect both participant level data and aggregate outcomes.

ii. Appropriateness and Feasibility, Degrees or Certificates Resulting From Training, and Deliverables (10 points)

- The applicant must fully demonstrate the appropriateness and feasibility of its projections of the project outcomes by addressing three factors: (1) The extent to which the expected project outcomes are realistic and consistent with the objectives of the project and the needs of the community; (2) the ability of the applicant to achieve the stated outcomes and report results within the timeframe of the grant; and (3) the appropriateness of the outcomes with respect to the requested level of funding.
- Project activities leading to an industry-recognized degree or certificate must identify the degree or certificate that participants will earn as a result of the proposed training, and the employer-, industry-, or State-defined standards associated with the degree or certificate. If the degree or certificate targeted by the training project is performance-based, applicants should either: (a) Demonstrate employer engagement in the curriculum development process, or (b) demonstrate that the degree or certificate will translate into concrete job opportunities with an employer.
- If applicable, applicants must provide a comprehensive list of expected deliverables consistent with the project work plan that includes a brief description of the deliverable (such as updated curriculum and outreach materials), the anticipated completion date, and an estimated timeframe and method for electronic delivery to ETA. Electronic delivery may include e-mail for smaller documents, DVDs or other electronic media for transmission of larger files.

iii. Suitability for Evaluation (5 Points)

Under this Solicitation, the Department of Labor seeks to support programs that will provide training that improves participants' employment outcomes. The Department is committed to evaluating program results to assess whether programs meet this goal and which models are most effective, providing a basis for future program improvements and funding decisions. The Department intends to select some portion of grantees to participate in a rigorous evaluation. This section asks for evidence that applicants will be able to participate productively in an evaluation. To receive points under this section, applicants must describe their plans for meeting the following criteria. Specifically, the applicant must:

- Explain a recruitment plan that could yield a large number of qualified applicants for the program, and potentially more applicants than the number of positions available;

• Be able to collect participant-level information on individuals who apply to participate in the program;

• Have project retention strategies to minimize client attrition and help researchers track those who leave the program before completion;

• Work collaboratively with an outside evaluator selected by the Department of Labor;

• Be willing to work with academics who are independent researchers qualified to conduct rigorous research; and

• Provide additional information about why funding this proposal will enhance knowledge about effective programs in a way that has the potential to benefit individuals and communities not directly served by the program.

B. Review and Selection Process

Applications for grants under this solicitation will be accepted after the publication of this announcement and until the closing date. A technical review panel will make careful evaluation of applications against the selection criteria. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, depending on the quality of the responses to the required information described in Section V.A. 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; representation across industries specified in this SGA and applicant types; 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. The Grant Officer may consider any information that comes to his/her attention. The government 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*.

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution and non-selected applicants will be notified by mail. Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, ETA 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.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions:

i. Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

ii. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

iii. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR part 97 (Administrative Requirements).

iv. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 (Cost Principles), and 29 CFR part 95 (Administrative Requirements).

v. All entities must comply with 29 CFR parts 93 and 98, and, where applicable, 29 CFR parts 96 and 99.

vi. 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.

vii. 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.

viii. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

ix. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

x. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

xi. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

The following administrative standards and provisions may be applicable:

i. The American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, Division A, Title VIII (February 17, 2009).

ii. The Green Jobs Act of 2007, Public Law 110–140, 121 Stat. 1748 (codified at 29 U.S.C. 2916).

iii. The Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 939 (codified as amended at 29 U.S.C. 2801 *et seq.*) and 20 CFR part 667 (General Fiscal and Administrative Rules).

iv. 29 CFR part 29 and 30—Apprenticeship and Equal Employment Opportunity in Apprenticeship and Training; and

v. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998. The Department notes that the Religious Freedom Restoration Act (RFRA), 42 U.S.C. section 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.

vi. Under WIA Section 181(a)(4), health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in training and other activities. Applicants that are awarded grants through this SGA are reminded that these health and safety standards apply to participants in these grants.

In accordance with Section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 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.

Except as specifically provided in this SGA, DOL's acceptance of a proposal and an award of Federal funds to sponsor any programs(s) does not provide a waiver of any grant requirements and/or procedures. For

example, the 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's 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.

2. Special Program Requirements

i. Evaluation

To measure the impact of grants funded under the SGA, ETA intends to fund one or more independent evaluations, which could include a random-assignment impact evaluation. By accepting funding, grantees must agree to participate in such an evaluation, should their site(s) be selected to participate. Grantees must agree to make records on participants, employers, and funding available and to provide access to program personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

ii. Definition of Certificates

A certificate is awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are based on standards developed or endorsed by employers. Certificates awarded by workforce investment boards are not included in this definition. Work readiness certificates are also not included in this definition. A certificate is awarded in recognition of an individual's attainment of technical or occupational skills by:

- A state educational agency or a state agency responsible for administering vocational and technical education within a state.
- An institution of higher education described in Section 102 of the Higher Education Act (20 U.S.C. 1002) that is qualified to participate in the student financial assistance programs authorized by Title IV of that Act. This includes community colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in Federal student financial aid programs.
- A professional, industry, or employer organization (*e.g.,* National Institute for Automotive Service Excellence certification, National Institute for Metalworking Skills, Inc., Machining Level I credential) or a product manufacturer or developer (*e.g.,* Microsoft Certified Database Administrator, Certified Novell Engineer, Sun Certified Java Programmer) using a valid and reliable assessment of an individual's knowledge, skills, and abilities.
- A registered apprenticeship program.
- A public regulatory agency, upon an individual's fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to use an occupational or professional title or to practice an occupation or profession (*e.g.,* FAA aviation mechanic certification, state certified asbestos inspector).
- A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons.
- Job Corps centers that issue certificates.
- Institutions of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes.

iii. Definitions of Populations and Other Key Terms

Organizations submitting an application in response to this SGA should use the following definitions for any of the following populations and/or other key terms that are specifically identified in this SGA:

- Disadvantaged individuals within areas of high poverty: For the purposes of this SGA, disadvantaged individuals are defined as individuals with no incomes or low incomes who live in areas where the poverty rate is 15% or greater and who can benefit from skill training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information: Part B of this SGA.
- High school drop-outs: For the purposes of this SGA, ETA defines ''high school drop-out'' as an individual who is no longer attending any secondary school and who has not received a secondary school diploma or its recognized equivalent.
- Individuals in need of updated training related to the energy efficiency and renewable energy industries: For the purposes of this SGA, this term refers to individuals who are currently employed; or were terminated or laid-off or have received a notice of termination or lay-off from employment; or were self-employed but are now unemployed; and can benefit from training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information: Part B of this SGA.
- Individuals with a criminal record: For the purposes of this SGA, ETA defines this term as an individual who is or has been subject to any stage of the juvenile or criminal justice process, for whom services under this Act may be beneficial; or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. ETA includes individuals with a juvenile or criminal record in the definition for this term.
- Unemployed individuals: For the purposes of this SGA, ETA defines ''unemployed individual'' as an individual who is without a job and who wants and is available to work.
- Veterans: For the purposes of this solicitation, ETA follows the WIA definition of veteran under 29 U.S.C. 2801(49)(A), which defines the term ''veteran'' as ''an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.'' Active military service includes full-time duty (other than full-time duty for training purposes) in Reserve components ordered to active duty, or in National Guard units called to Federal Service by the President.
- Workers impacted by national energy and environmental policy: For the purposes of this SGA, ETA defines this term as individuals who: (1) Are currently employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and have received a notice of termination or lay-off from employment; or (2) were employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and are now unemployed.

• National labor-management organization: A national labor-management organization is a nonprofit entity, such as a training fund, training trust fund, or an education trust fund, with joint participation of employers and labor organizations on its executive board or comparable governing body. This entity must have a formalized agreement between the employer(s) and labor organization(s) to operate a joint labor management training program(s) in multiple sites across the country through the state, local, or regional networks affiliated with the nonprofit entity.

• U.S. territories: For the purposes of this SGA, the term ''U.S. territories'' includes the Commonwealth of Puerto Rico, as well as the following outlying areas: the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

3. American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) Provisions

Prospective applicants are advised that, if they receive an award, they must comply with all requirements of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5]. Applicants are advised to review the Act and implementing OMB guidance in the development of their proposals. Requirements include, but are not limited to:

• Adherence to all grant clauses and conditions as they relate to Recovery Act activity.

• Prohibition on expenditure of funds for activities at any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

• Compliance with the requirements to obtain a D–U–N–S® Number and register with the Central Contractor Registry (CCR). ETA will issue additional guidance related to this requirement shortly.

• Submission of required reports in accordance with Section 1512 of the Recovery Act. These reports will be due quarterly within 10 days of the end of the reporting period and are in addition to the ETA required reports addressed in Section VI.C of this SGA. ETA will issue additional guidance related to these reports and their submission requirements shortly.

Implementing OMB guidance may be found at *http://www.recovery.gov.*

C. Reporting

Quarterly financial reports, quarterly progress reports, and MIS data will be submitted by the grantee electronically. The grantee is required to provide the reports and documents listed below:

1. Quarterly Financial Reports

A Quarterly Financial Status Report (ETA 9130) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 45 days after the end of each calendar year quarter. Grantees must use DOL's On-Line Electronic Reporting System and information and instructions will be provided to grantees.

2. Quarterly Performance Reports

The grantee must submit a quarterly progress report within 45 days after the end of each calendar year quarter. In order to submit these quarterly reports, grantees will be expected to track participant-level data regarding the individuals that are involved in training and other services provided through the grant and report on participant status in a variety of fields and outcome categories, as well as provide narrative information on the status of the grant. The last quarterly progress report that grantees submit will serve as the grant's Final Performance Report. This report should provide both quarterly and cumulative information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project, and should thoroughly document the training or labor market information approaches utilized by the grantee. DOL will provide grantees with formal guidance about the data and other information that is required to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements.

3. Record Retention

Applicants should be aware of Federal guidelines on record retention, which require grantees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

VII. Agency Contacts

For further information regarding this SGA, please contact Melissa Abdullah, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3346 (This is not a toll-free number). Applicants should e-mail all technical questions to *Abdullah.Melissa@dol.gov* and must specifically reference SGA/DFA PY 08–19, and along with question(s), include a contact name, fax and phone number. This announcement is being made available on the ETA Web site at *http://www.doleta.gov/grants* and at *http://www.grants.gov.*

VIII. Additional Resources of Interest to Applicants

A. Instructions for Identifying Public Use Microdata Areas (PUMAs) and Locating Poverty Rates

Refer to the guidance below for help in locating the poverty data information described in Section V.A.1.i:

1. Identify PUMA(s) To Be Served

As described in Section III.C.2 and Section V.A.1.i, applicants must identify, for each community served, the one or more contiguous Public Use Microdata Areas (PUMAs) that the project will serve. PUMAs are geographic statistical areas designated by the U.S. Census Bureau. To locate the appropriate 5-digit PUMA code(s), applicants can find PUMA maps for each State at *http://www.census.gov/geo/www/maps/puma5pct.htm.* Applicants can also utilize the PUMA Lookup spreadsheet available for download at *http://www.workforce3one.org/view/2000916359265073156/info.* This spreadsheet provides PUMA codes sorted by State and area name (such as townships, cities, and counties).

2. Locating Poverty Rate for Each PUMA

As described in Section V.A.1.i, applicants must provide the poverty rate for each PUMA identified. After locating the appropriate 5-digit PUMA code(s), utilize the Poverty Data spreadsheet to identify the poverty rate for each PUMA, which is found in the rightmost column of the spreadsheet on Tab 1. Note that this spreadsheet has three Tabs, listing poverty rates for: (1) United States, DC, and Puerto Rico; (2) American Indian Areas, Alaskan Native Areas, and Hawaiian Home Lands; and (3) Outlying Areas. Download the spreadsheet from *http://www.workforce3one.org/view/2000916359251042484/info.* The data for Tab 1 were obtained from the U.S. Census Bureau's 2005–2007 American Community Survey (ACS) 3-Year Estimates. Because ACS data is not currently available for many American Indian Areas, Alaska Native Areas, Hawaiian Homelands, and outlying areas, data for Tabs 2 and 3 were obtained from the 2000 Decennial Census. Applicants proposing to serve PUMAs, American Indian Areas, Alaska Native Areas, Hawaiian Homelands, or outlying areas that are not listed in the Poverty Data spreadsheet should use, and cite, another appropriate data source for poverty rate information.

B. Other Web-Based Resources

DOL maintains a number of Web-based resources that may be of assistance to applicants. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One Stop Career Centers.

C. Industry Competency Models

ETA supports an Industry Competency Model Initiative to promote an understanding of the skill sets and competencies that are essential to an educated and skilled workforce. A competency model is a collection of competencies that taken together define successful performance in a particular work setting. Competency models serve as a starting point for the design and implementation of workforce and talent development programs. To learn about the industry-validated models visit the Competency Model Clearinghouse (CMC) at *http://www.careeronestop.org/CompetencyModel.* The CMC site also provides tools to build or customize industry models, as well as tools to build career ladders and career lattices.

D. Federal Collaboration

DOL encourages other Federal partners to recommend or require, where appropriate, that organizations receiving Recovery Act funding list jobs created with their state public labor exchange. The Department is developing specific strategies to link job listings, training opportunities and placement among programs funded by Departments of Housing and Urban Development, Energy, Education, and the Environmental Protection Agency. Where the grantee is not the public workforce system, they are strongly encouraged to work with the local One Stop Career Center to make these connections.

E. Links to Federal Recovery Sites

For specific information on a range of Federal agency Recovery Act activities and funding opportunities:

- Department of Education: *http://www.ed.gov/policy/gen/leg/recovery/index.html.*
- Department of Energy: *http://www.doe.gov/recovery.*
- Department of Housing and Urban Development: *http://www.hud.gov/recovery.*
- Department of Transportation: *http://www.dot.gov/recovery/.*
- Environmental Protection Agency: *http://www.epa.gov/recovery.*

F. Promising Training Approaches

ETA encourages applicants to research promising training approaches in order to inform their proposals. The following list of Web sites provides a starting place for this research, but by no means should be considered a complete list:

- ETA's home site (*http://www.doleta.gov*) and the ETA Research Publication Database (*http://wdr.doleta.gov/research/keyword.cfm*).
- ETA's knowledge sharing site (*http://www.workforce3one.org*), including the ''workforce solutions'' section that contains over 6,000 additional resources applicants may find valuable in developing workforce strategies and solutions.
- The National Governors Association Center for Best Practices (*http://www.nga.org*).
- The National Association of State Workforce Agencies (*http://www.workforceatm.org*).
- The National Association of Workforce Boards (*http://www.nawb.org*).

IX. 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 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 OMB Desk Officer for ETA, Department of Labor, in the Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the 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 SGA will be used by DOL 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.

Signed at Washington, DC, this 19th day of June, 2009.

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. E9–14928 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

American Recovery and Reinvestment Act of 2009; Notice of Availability of Funds and Solicitation for Grant Applications for Energy Training Partnership Grants

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY 08–18.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.275.

DATES: The closing date for receipt of applications under this announcement is September 4, 2009. Applications must be received no later than 4 p.m. (Eastern Time), or submitted electronically by the deadline and in accordance with the instructions in Section IV.C of this Solicitation. A Webinar for prospective applicants will be held for this grant competition on July 13 from 2–3:30 p.m. ET. Access information for the Webinar will be posted on the U.S. Department of Labor's (DOL), Employment and Training Administration (ETA) Web site at: *http://www.workforce3one.org.* Potential applicants are encouraged to participate in this webinar, but attendance is not mandatory. A recording of the webinar will be available on *http://www.workforce3one.org* by 3 p.m. ET, July 17.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Donna Kelly, Grant Officer, Reference SGA/DFA PY–08–18, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. For complete ''Application and Submission Information'' please refer to Section IV.

SUMMARY: Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act), DOL announces the availability of approximately $100 million in grant funds to 20–30 projects ranging from approximately $2 to $5 million each. Projects will provide training and placement services in the energy efficiency and renewable energy industries for workers impacted by

national energy and environmental policy, individuals in need of updated training related to the energy efficiency and renewable energy industries, and unemployed workers. Proposed projects must be developed and implemented through strategic partnerships.

National, nonprofit labor management organizations and Statewide or local nonprofit entities are eligible to apply for grant funds under this SGA. Detailed eligibility information can be found in Section III.A.

A portion of the funds under this SGA will be reserved for projects serving communities undergoing auto industry related restructurings. Approximately $25 million of the total funds available through this Solicitation will be awarded for projects serving communities impacted by auto industry restructuring, though the Department reserves the right to change this amount depending on the quantity and quality of applications submitted under this SGA. *See* Attachment I for a list of auto-impacted communities.

SUPPLEMENTARY INFORMATION:

A. Recovery Act: Competitive Grants for Green Job Training

This section of the SGA provides general background on the American Recovery and Reinvestment Act of 2009 (Recovery Act), the competitive grants funded through the Recovery Act to prepare workers for careers in the energy efficiency and renewable energy industries, and the occupations and industries on which these grants should focus.

On February 17, 2009, President Barack Obama signed into law the Recovery Act through which Congress intended to preserve and create jobs, promote the nation's economic recovery, and assist those most impacted by the recession. Among other funding directed toward the Department of Labor (DOL), the Recovery Act provides $750 million for a program of competitive grants for worker training and placement in high growth and emerging industries. Of the $750 million allotted for competitive grants, the Recovery Act designates $500 million for projects that prepare workers for careers in the energy efficiency and renewable energy sectors described in Section 171(e)(1)(B) of the Workforce Investment Act (WIA). DOL intends to use a portion of the $500 million for providing technical assistance for this program of grants.

The purpose of these green job training grants is to train and teach workers the skills required in these emerging energy efficiency and renewable energy sectors. These efforts will lead program participants to job placement while leveraging other Recovery Act investments intended to create jobs and promote economic growth. For additional information about the series of competitive grants for green job training, please refer to Training and Employment Notice (TEN) 44–08 available at *http://www.doleta.gov/Recovery/legislation.cfm.*

B. Green Industries and Occupations

The Department will award grants to workforce development projects that focus on connecting target populations, including auto and auto-related industry workers affected by significant automotive-related restructurings, to career pathways in green industries. Training programs will prepare individuals for careers in any of the seven energy efficiency and renewable energy industries defined in Section 171(e)(1)(B)(ii) of the WIA, which include:

- The energy-efficient building, construction, and retrofit industries;
- The renewable electric power industry;
- The energy efficient and advanced drive train vehicle industry;
- The biofuels industry;
- The deconstruction and materials use industries;
- The energy efficiency assessment industry serving residential, commercial, or industrial sectors; and
- Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

Additionally, the Department is interested in applicants contributing to our understanding of green industries and jobs that clean and enhance our environment. Initial research supported by the Department of Labor shows that there are ''growth, enhanced and emerging'' green occupations across a number of industries. Applicants may propose strategies that train for those occupations from among the following industries: Transportation; green construction; environmental protection; sustainable agriculture including healthy food production; forestry; and recycling and waste reduction (*see* O*NET report at *http://www.onetcenter.org/reports/Green.html*). The Department will consider proposals that focus on these occupations within these industries if applicants can offer supporting data demonstrating these are emerging industries which are producing jobs in their communities.

For the purpose of these SGAs, the Department defines energy efficiency and renewable energy as follows. Section 203(b)(2) of the Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 595, defines ''renewable energy'' as ''electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.'' ''Energy efficiency'' can be broadly defined as programs aimed at mitigating the use of energy, reducing harmful emissions, and decreasing overall energy consumption.

The Department of Labor's Bureau of Labor Statistics (BLS) is working to develop a definition for green sectors and jobs, which will be used to ensure that workforce development efforts identify and target these green jobs and their training needs. The Department has also supported occupational research that begins to define green jobs, review sectors impacted by green investments and understand how new green technology and materials will affect occupational requirements. The Occupational Information Network (O*NET) project has drafted a research paper titled, *Greening of the World of Work: Implications for O*NET–SOC and New and Emerging Occupations.* This study reflects three general categories of occupations, based on different consequences of green economy activities and technologies: (1) Existing occupations expected to experience primarily an increase in employment demand; (2) existing occupations with significant change to the work and worker requirements; and (3) new and emerging green occupations. This research may be used as a starting point for identifying green industries and occupations and informing the development of training and job placement programs. For a copy of the O*NET report and a listing of the identified occupations go to *http://www.onetcenter.org/reports/Green.html.*

C. Working With Other Recovery Act Programs

The Recovery Act made funds available to a number of other Federal programs that will impact the creation and expansion of green jobs. DOL is partnering with other Federal agencies to support the creation of jobs by developing a pipeline of skilled workers in the energy efficiency and renewable energy industries. Where possible, ETA encourages applicants to connect their workforce development strategies to other Recovery Act funded projects that create jobs or impact the skill

requirements of existing jobs. ETA recommends that applicants review other parts of the Recovery Act, with a focus on the activities funded through the Department of Energy (Energy), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the Department of Education (Education) and others. For additional resources and information about our Federal partners, please see Section VIII, Additional Resources of Interest to Applicants.

I. Funding Opportunity Description

Energy Training Partnership funds are intended to provide training for workers that prepares them to enter the energy efficiency and renewable energy industries, as well as green occupations within other industries, as described in the Supplementary Information: Part B of this SGA. Individuals eligible for training include workers impacted by national energy and environmental policy, individuals in need of updated training related to the energy efficiency and renewable energy industries, and unemployed workers. A portion of the funds under this SGA will be reserved (as described in Section II, Award Information) for projects serving communities impacted by automotive-related restructuring.

Projects funded through this SGA will be implemented by partnerships made up of a diverse set of stakeholders including labor organizations, public or private employers in the energy efficiency and renewable energy industries, and the workforce system. Bringing to bear the workforce expertise of these groups will allow successful applicants to develop programs that are responsive to the needs of both workers and employers, and that provide participants with the support needed to successfully complete training.

The current economic downturn has had widespread effects on individuals in communities across the United States, and has left many workers seeking new careers. Workers impacted by national energy and environmental policy, individuals in need of updated training related to the energy efficiency and renewable energy industries, and unemployed workers face unique obstacles to gaining new employment. Many need to upgrade existing skills or learn new ones to transition into careers in high growth industries, but also need immediate employment to continue earning wages and supporting their families. This is particularly true of workers in communities adversely impacted by automotive industry restructuring.

All training and placement activities funded through this grant will be conducted at the local level. Successful applicants under category 1 (as described in Section III.A of this SGA) will be required to fund at least two (2) but no more than five (5) sub-grants or sub-contracts to State or local affiliates that will deliver grant-funded training and supportive services (where appropriate) to participants. Grant funded activities will be undertaken in collaboration with required partners detailed in Section III.C.1. This approach will help to ensure that workers at multiple sites will benefit from grant-funded training, and that sub-grantees or sub-contractors have adequate funding to implement effective projects. It will also enhance the coordination and efficiency of national organization-approved training programs being delivered at the local level.

To ensure quality training within a limited timeframe, applicants may develop and/or modify existing curricula and strategies to deliver training. Keeping in mind the long-term needs of workers, it is strongly recommended that training lead to portable industry degrees or certificates that assist participants to seek employment in multiple job markets.

II. Award Information

A. Award Amount: Under this SGA, ETA intends to fund approximately 20–30 grants ranging from $2 to $5 million. In an effort to fund the greatest number of high-quality projects, grant awards through this SGA will be limited to $5 million, and applicants requesting more than $5 million will be considered non-responsive. Within the funding ranges specified above, applicants are encouraged to submit proposals for quality projects at whatever funding level is appropriate to the project. Approximately $25 million of the total funds available through this Solicitation will be reserved for projects in communities impacted by automotive-related restructuring, though the Department reserves the right to change this amount depending on the quantity and quality of applications submitted under this SGA. *See* Attachment I for a list of counties impacted by automotive-related restructuring. The Center for Automotive Research identified the attached list of 281 U.S. counties that either have an automotive assembly plant or parts manufacturer employing regional residents.

B. Period of Performance: The period of grant performance will be up to 24 months from the date of execution of the grant documents. This performance period shall include all necessary implementation and start-up activities as well as participant follow-up.

Applicants should plan to fully expend grant funds during the period of performance while ensuring full transparency and accountability for all expenditures.

III. Eligibility Information

A. Eligible Applicants: Under this announcement, eligible applicants are private nonprofit organizations that must apply under one of two categories: (1) National labor-management organizations with local networks; or (2) Statewide or local nonprofit partnerships. All applicants are expected to work in conjunction with partnerships consisting of labor organizations, employers, Workforce Investment Boards (WIBs), and other organizations as defined in section 171(e)(2)(B)(ii) of WIA. These categories create two applicant pools, which will compete separately for funding under this SGA.

1. National Labor-Management Organizations: A national labor-management organization is a nonprofit entity, such as a training fund, training trust fund, or an education trust fund, with joint participation of employers and labor organizations on its executive board or comparable governing body. This entity must have a formalized agreement between the employer(s) and labor organization(s) to operate a joint labor management training program(s) in multiple sites across the country through the State, local, or regional networks affiliated with the nonprofit entity. The national labor-management organization is the lead applicant. However, if the national labor-management organization is not a separate legal entity, the labor organization is the eligible applicant. All grant-funded worker training activities will be delivered in the communities where project participants live and work. Therefore, national labor-management organizations are required to fund sub-grants or sub-contracts to local affiliates that will deliver the training as part of a strategic partnership as defined in Section III.C.1.

2. Statewide and Local Entities: Applicants for the State and local category are local or Statewide non-profit entities with a joint partnership of labor organizations, employers or industry organizations, Workforce Investment Boards and One Stop Career Centers. A Statewide or local entity that receives an award under category 2 of this SGA may not receive sub-grant or

sub-contract funding from a national organization that receives an award under category 1. For the purposes of this SGA, the term ''State'' means each of the 50 States of the United States, the District of Columbia, and U.S. territories as defined in Section VI.B.

ETA expects to publish two SGAs during the summer of 2009: Energy Training Partnerships SGA [SGA/DFA PY 08–18] and the Pathways Out of Poverty SGA [SGA/DFA PY 08–19]. ETA will not fund any one organization as a grantee more than once through these two SGAs. An applicant may choose to submit an application for the Energy Training Partnerships SGA [SGA/DFA PY 08–18] and the Pathways Out of Poverty SGA [SGA/DFA PY 08–19]; however, DOL does not encourage applicants to submit applications to both competitions. An organization that submits an application for one SGA is not precluded from participating as a suggested or required partner in applications submitted in response to the other SGA. Finally, an organization may not submit multiple applications in response to any one SGA.

B. Cost Sharing: Cost sharing or matching funds are not required as a condition for application, but leveraged resources are strongly encouraged and may affect the applicant's score in section V.A.3 of the evaluation criteria.

D. Other Eligibility Requirements

1. Strategic Partnerships: Through strong and diverse partnerships, projects can maximize participants' opportunities for training that ultimately results in family-supporting employment. Therefore, successful applicants must propose partnerships that include representatives from: Labor organizations; Local Workforce Investment Boards and One Stop Career Centers; and employers or industry organizations.

i. Labor Organizations: Labor organizations may contribute to many aspects of grant activities, including identifying skills and competencies; developing new or modifying existing curricula; conducting occupation and skills training; and issuing industry-recognized degrees or certificates.

ii. Employers, Industry Organizations: In addition to providing contributions similar to those of labor organizations, employers and industry organizations can provide on-the-job work experiences, and may ultimately employ qualified program participants.

iii. Local Workforce Investment Boards and One Stop Career Centers: Local Workforce Investment Boards and One Stop Career Centers must be included as partners in all applications, but are not eligible applicants under this SGA. Local Workforce Investment Boards and One Stop Career Centers may provide a range of services including: Identifying, assessing, and referring candidates for training; connecting workers with employers; and providing support services for qualified individuals, where appropriate.

iv. Other suggested partners: In addition to the required partners above, applicants are strongly encouraged to include:

- The education and training community which includes the continuum of education from secondary schools to community and technical colleges, four year colleges and universities, registered apprenticeship training providers, technical and vocational training institutions, and other training entities;
- Federal partners such as DOL/ETA's Office of Apprenticeship or the appropriate State Apprenticeship Agency can assist in developing new or modifying existing training curricula and apprenticeship program standards.
- State partners including State energy offices, weatherization offices, State Environmental Protection Agencies (or equivalent), State Utility Boards and other State entities with experience in the renewable energy and energy efficiency industries.
- Faith-based and community-based organizations, which may provide supportive services to assist participants' successful completion of training and ultimately their employment in green jobs.
- Organizations implementing projects funded by the Recovery Act to create jobs in the energy efficiency or renewable energy industries that are in skilled workers to fill these positions.

D. Proposed Strategies: The purpose of this SGA is to fund projects that provide training and supportive services, as appropriate, that lead to employment in the energy efficiency and renewable energy industries. Projects using registered apprenticeship may provide workers with a source of income while they gain new skills and competencies. Therefore, applications funding registered apprenticeship and/or pre-apprenticeship strategies are strongly encouraged.

While this funding opportunity is available through the Recovery Act, the long term objective is to ensure that the workforce system continues to prepare workers for emerging careers in the green economy.

1. All proposed projects must incorporate training activities that:

i. Address skills and competencies demanded by the targeted industries;

ii. Support participants' advancement along a defined career pathway such as an articulated career ladder and/or lattice, if such a path exists in the targeted industry or industries;

iii. Take place at times and locations that are convenient and easily accessible for the targeted populations. This training can be accomplished through Distance Learning or Technology Based Learning in cases where these strategies benefit participants and allow the grantee to accomplish the objectives of this SGA.

iv. As appropriate, include paid work experience activities that allow participants to learn occupational skills on the job while earning wages, and which will lead to permanent employment in the targeted industry or industries;

v. Integrate training activities with supportive services to ensure that participants have the necessary support to overcome barriers to employment; and as appropriate, result in a pre-existing industry-recognized degree or certificate that indicates a level of mastery and competence in a given field or function.

2. In implementing projects that meet the requirements outlined above, applicants may propose a wide range of activities. When designing the proposed activities, DOL encourages applicants to look at program models with previous success in serving the priority populations targeted through this SGA, especially those with strong program evaluations showing positive impacts on participants. Allowable activities include:

i. Occupational training in energy efficiency and renewable energy industries;

ii. On-the-job and customized training in energy efficiency and renewable energy industries;

iii. Developing Registered Apprenticeship and pre-apprenticeship programs in energy efficiency and renewable energy industries;

iv. Supportive services that will allow individuals to participate in the direct training provided through the grant.

3. Applicants may propose projects that will use a small and reasonable portion of grant funds on the following activities which must support worker training and placement:

i. Instructor education and/or training for staff that will deliver and administer registered apprenticeship programs or other training and education programs that lead to employment;

ii. Where no appropriate curricula exist, develop or modify existing

curricula to deliver training. Curricula developed with grant funds must be used during the period of performance as part of training strategies for participants served through grant-funded activities; and

iii. Where no appropriate apprenticeship guideline standards exist, develop or modify national guideline apprenticeship standards for programs in the energy efficiency and renewable energy industries.

iv. Where no appropriate industry-recognized degrees or certificates exist, develop processes for defining and issuing such degrees or certificates.

E. Other Grant Specifications

1. Participants Eligible to Receive Training: Projects funded through this SGA must give priority for training and other services to workers impacted by national energy and environmental policy, individuals in need of updated training related to the energy efficiency and renewable energy industries, unemployed workers, and veterans or past and present members of reserve components of the Armed Forces. Projects may also serve individuals with a criminal record; and populations that have not traditionally been employed in construction and skilled trades occupations, such as women and minorities. For specific definitions for these target populations, applicants must refer to Section VI.B. As part of the overall strategy for delivering green jobs training through the Recovery Act, ETA has issued the Pathways out of Poverty SGA, which directly targets projects that serve key participant populations within poverty areas such as disadvantaged workers.

2. Veterans Priority: The Jobs for Veterans Act (Pub. L. 107–288) provides priority of service to 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 DOL. Grantees are required to provide priority of services for veterans and eligible spouses pursuant to 20 CFR part 1010, the regulations implementing priority of service for veterans and eligible spouses in Department of Labor job training programs under the Jobs for Veterans Act published at 73 FR 78132 on December 19, 2008. In circumstances where a grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that grant recipients give the veteran priority of service by admitting him or her into the program. Please note that to obtain priority of service a veteran must meet the program's eligibility requirements. Grantees must comply with DOL guidance on veterans' priority. Currently, ETA Training and Employment Guidance Letter (TEGL) No. 5–03 (September 16, 2003) provides general guidance on the scope of the Job for Veterans Act and its effect on current 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.*

3. Grantee Training: Grantees are required to participate in all DOL/ETA training activities related to orientation, financial management and reporting, performance reporting, product dissemination, and other technical assistance training as appropriate during the life of the grant. These trainings may occur via conference call, webinar, and in-person meetings. For budgeting purposes, applicants should include costs for three staff members to attend trainings that are each two full days in Washington DC during the grant's period of performance.

IV. Application and Submission Information

A. How To Obtain an Application Package: This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission: The proposal will consist of three separate and distinct parts—a (I) cost proposal, a (II) technical proposal, and (III) attachments to the technical proposal. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered. Please note that it is the applicant's responsibility to ensure that the funding amount requested is consistent across all parts and sub-parts of the application.

Part I. The Cost Proposal. The Cost Proposal must include the following four items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). 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 authorized representative of the applicant.
- Applicants must supply their D–U–N–S® number on the SF 424. All applicants for Federal grant and funding opportunities are required to have a Data Universal Numbering System (D–U–N–S®) number. *See* Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402, June 27, 2003. The D–U–N–S® number is a nine-digit identification number that uniquely identifies business entities. Obtaining a D–U–N–S® number is easy and there is no charge. To obtain a D–U–N–S® number, access this Web site: *http://www.dunandbradstreet.com* or call 1–866–705–5711.
- The SF 424A Budget Information Form (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request, explained in detail below.
- Budget Narrative: The budget narrative must provide a description of costs associated with each line item on the SF–424A. It should also include leveraged resources provided to support grant activities. In addition, the applicant should address precisely how the administrative costs support the project goals. The entire Federal grant amount requested should be included on both the SF 424 and SF 424A (not just one year). No leveraged resources should be shown on the SF 424 and SF 424A. Please note that applicants that fail to provide a SF 424, SF 424A, a D–U–N–S® number, and a budget narrative will be removed from consideration prior to the technical review process.
- Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found under the Gramts.gov, Tips and Resources From Grantors, Department of Labor section at *http://www07.grants.gov/applicants/tips_resources_from_grantors.jsp#13* (also referred to as Faith Based EEO Survey PDF Form).

Part II. The Technical Proposal. The Technical Proposal will demonstrate the applicant's capability to implement the grant project in accordance with the provisions of this solicitation. The guidelines for the content of the Technical Proposal are provided in Part V.A of this SGA. The Technical Proposal is limited to 20 double-spaced single-sided pages with 12 point text font and 1 inch margins. Any materials beyond the 20-page limit will not be read. Applicants should number the Technical Proposal beginning with page number 1. Applicants that do not provide Part 2, the Technical Proposal of the application will be removed from

consideration prior to the technical review process.

Part III. Attachments to the Technical Proposal. In addition to the 20-page Technical Proposal, the applicant must submit attachments to the technical proposal, which include a two-page abstract and a single letter of commitment for each local area or community where grant-funded training activities will occur that describes the roles and responsibilities of, and is signed by, each required partner. The commitment letters and abstract must accompany the application. Please note that applicants should not send letters of commitment separately to ETA because letters are tracked through a different system and will not be attached to the application for review. No support letters are permitted. National labor-management organization applicants must provide documentation clearly demonstrating participation of employers and labor organizations in the joint administration and governance of training programs to be funded through this SGA. The applicant must also provide an Abstract, not to exceed two pages, summarizing the proposed project including applicant name, project title, a description of the area to be served, including whether this is an urban, suburban, or rural area, the funding level requested, and the category of applicant: National labor-management organization or Statewide or local nonprofit entity. The abstract must also indicate whether one or more of the counties served by the proposed project appear on the attached list of counties impacted by automotive-related restructuring, which is included as Attachment I of this SGA. The applicant should indicate the total amount of grant funds that will be used for activities in those impacted counties.

These additional materials, (commitment letters and abstract) do not count against the 20-page limit for the Technical Proposal, but may not exceed 15 pages. Any additional materials (commitment letters and two-page abstract) beyond the 15-page limit will not be read.

Applications may be submitted electronically on Grants.gov or in hardcopy via mail or hand delivery. These processes are described in further detail in Section IV.C. Applicants submitting proposals in hardcopy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hardcopy are also required to provide an identical electronic copy of the proposal on compact disc (CD).

C. Submission Process, Date, Times, and Addresses: The closing date for receipt of applications under this announcement is September 4, 2009. Applications must be received at the address below no later than 4 p.m. (Eastern Time). Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted.

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.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Donna Kelly, Grant Officer, Reference SGA/DFA, PY 08–18, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. 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. All professional overnight delivery service will be considered to be hand-delivered and must be received at the designated place by the specified closing date and time.

Applicants may apply online through Grants.gov (*http://www.grants.gov*), however, due to the expected increase in system activity resulting from the American Recovery and Reinvestment Act of 2009, applicants are encouraged to use an alternate method to submit grant applications during this heightened period of demand. While not mandatory, DOL encourages the submission of applications thru professional overnight delivery service.

Applications that are submitted through Grants.gov must be successfully submitted at *http://www.grants.gov* no later than 4 p.m. (Eastern Time) on September 4, 2009, 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.

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 strongly 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.

To ensure consideration, the components of the application must be saved as either .doc, .xls or .pdf files. If submitted in any other format, the applicant bears the risk that compatibility or other issues will prevent our ability to consider the application. ETA will attempt to open the document but will not take any additional measures in the event of issues with opening. In such cases, the non-conforming application will not be considered for funding.

Applicants are strongly advised to use 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 4 p.m. (Eastern Time) on the closing date and successfully validated will be considered.

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, it was properly addressed, and it was: (a) Sent by U.S. Postal Service mail, postmarked 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) sent by professional overnight delivery service to the addressee not later than one working day prior to the date specified for receipt of applications. Applicants take a significant risk by waiting to the last day to submit by grants.gov. ''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.

D. Intergovernmental Review: This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions: Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. 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. Successful and unsuccessful applicants will not be entitled to reimbursement of pre-award costs.

1. Indirect Costs: As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. In order to use 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 grant award.

2. Administrative Costs: Under this SGA, an entity that receives a grant to carry out a project or program may not use more than 10 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be direct or 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.

3. Use of Funds for Supportive Services: Supportive services for adults and workers impacted by national energy and environmental policy are defined at WIA sections 101(46) and 134(e)(2) and (3). They include services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in training activities funded through this grant. Grantees may only use grant funds to provide these services to individuals who are participating in training services provided through the grant, that are unable to obtain services through other programs providing such services, and when such services are necessary to enable individuals to participate in these training activities. Grantees should ensure that their use of grant funds on supportive services is consistent with their established written policy regarding the provision of supportive services. Grantees may use no more than 5 percent of their grant funds on these services.

Applicants should be aware that certain WIA formula funds provided through the Recovery Act can be used for supportive services and successful applicants should seek to serve eligible participants through these sources.

4. Salary and Bonus Limitations: Under Public Law 109–234 and Public Law 111–8, Section 111, none of the funds appropriated in Public Law 111–5 or prior Acts under the heading ''Employment and Training'' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. These limitations also apply to grants funded under this SGA. The salary and bonus limitation does not apply to vendors providing goods and services as defined in OMB Circular A–133. *See* Training and Employment Guidance Letter number 5–06 for further clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.*

5. Intellectual Property Rights: The 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 rights of 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 are 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.

If applicable, the following needs to be on all products developed in whole or in part with grant funds:

''This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner.''

F. Use of funds for wage subsidies: Grant funds awarded through this SGA shall not be used to subsidize the wages of program participants.

G. Other Submission Requirements: Withdrawal of Applications. Applications may be withdrawn by written notice at any time before an award is made.

V. Application Review Information

A. Evaluation Criteria: This section identifies and describes the criteria that will be used to evaluate the grant proposals. These criteria and point values are:

Criterion	Points
Statement of Need	15
Project Management and Organizational Capacity	15
Strategy and Project Work Plan	50
Outcomes and Deliverables	15
Suitability for Evaluation	5

1. Statement of Need (15 points): Applicants must fully demonstrate a clear and specific need for the Federal investment in the proposed activities. Given the rapidly changing economic conditions, applicants should use the most current and relevant sources of data available.

Applicants must submit data and provide evidence for proposed projects in the local areas or communities where participants will be trained and employed. If applicable, Projects proposed to serve communities or train workers in the communities included on Attachment I that are undergoing auto industry related restructurings must make note of this in this section. Points for this section will be awarded based on a comprehensive demonstration of each of the following factors:

i. The applicant provides a complete description of the specific industries as defined in the **SUPPLEMENTARY INFORMATION**: Part B. of this SGA, and occupations within those industries on which their proposed training program will focus, including:

- The specific energy efficiency and/or renewable energy industry or industries;
- The specific occupation in that industry or industries for which participants will be trained, including the work performed and its major tasks; and
- The specific knowledge, skills, and/or abilities required by the occupation.

ii. The applicant presents a strong need for Federal funding of the proposed project by citing specific data sources and describing the analysis that has been conducted to clearly demonstrate the need for workforce training and the projected employment opportunities in the specific local areas or where grant-funded activities will take place, including:

- Current and projected employment in the targeted industries and occupations in the local area where grant-funded activities will actually be trained and placed; Identification of specific employers targeted to employ participants trained through grant-funded activities; and the current and projected hiring needs of these specific employers.
- Identification of the target population to be trained and placed in employment through grant-funded activities; in general, the educational attainment and skills possessed by the targeted populations; specific education, training and any other skill requirements of the occupations that will be targeted through this SGA, and an estimate of the skills gap between the two.

Applicants may draw from a variety of resources for supporting data, including: Traditional labor market information, such as projections; industry data from trade or industry associations, labor organizations, or direct information from the local employers or industry; information on the local and regional economy from economic development agencies; and other transactional data, such as job vacancies. As discussed at the beginning of this section, applications must include strong supporting evidence and data that are current, relevant, and specific to the local areas or communities where grant-funded training and placement activities will be conducted.

2. Project Management and Organizational Capacity (15 points): Applicants must fully describe the capacity of the applicant, its required partners and, if applicable, its local affiliates, coalition members, or other established partners, to effectively staff the proposed initiative. The application must also fully describe the applicant's fiscal, administrative, and performance management capacity to implement the key components of this project, and the track record of the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, in implementing projects of similar focus, size, and scope.

Scoring under this criterion will be based on the extent to which applicants provide evidence of the following:

i. Staff Capacity (5 points): Applicants should provide strong evidence that the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, will have the staff capacity to implement the proposed initiative, including the capacity in each designated community. Discussion should include:

- The proposed staffing pattern for the project, including program management and administrative staff, and program staff involved in each local project, which demonstrates that the role(s) and time commitment of the proposed staff are sufficient to ensure proper direction, management, implementation, and timely completion of each project.

ii. Fiscal, Administrative, and Performance Management Capacity (5 points): Strong evidence that the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, have the fiscal, administrative, and performance management capacity to effectively administer this grant. Discussion should include:

- A full description of the applicant's capacity, including its systems, processes, and administrative controls that will enable it to comply with Federal rules and regulations related to the grant's fiscal and administrative requirements.
- A full description of the applicants capacity, including its systems and processes that will support the grant's performance management requirements through effective tracking of performance outcomes. This should include an explanation of the applicant's processes to collect and manage data in a way that allows for accurate and timely reporting of performance outcomes. Applicants may partner with the public workforce system, as appropriate, to assist with performance reporting, and should describe access to specific data management software and/or resources for performance reporting.

iii. Experience of Applicant (5 points): The applicant's demonstrated experience leading or participating significantly in a comprehensive partnership, and the demonstrated experience of the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, in implementing and operating training, education, and job placement initiatives of similar focus, size and scope. Discussion should include:

- Specific examples of the applicant leading or participating significantly in a partnership that included a wide range of stakeholders, including a description of the programmatic goals of the project, and a demonstration of the results achieved by that project.

• Specific examples of the applicant's track record administering Federal, State, and/or local grants, including the programmatic goals and results from these projects; and

• A description of the experience of the applicant, its required partners, and, if applicable, its local affiliates, coalition members, or other established partners, in Federal, State, and/or local projects providing education, training, and placement services to the specific populations noted in Section III.E.1. (unemployed individuals, high school dropouts, individuals with criminal records, and disadvantaged workers within areas of high poverty), including the programmatic goals and results of the projects.

3. Strategy and Project Work Plan (50 points): This criterion is the heart of the proposal, and a successful score in this section will require the applicant to provide a very clear explanation of what their proposed strategy is and how they plan to implement it. The applicant must present a comprehensive work plan for the project, following the format provided later in this section. Points for this criterion will be awarded for the following factors:

i. Strategy (35 points): Up to 35 points may be awarded based on compelling evidence that the applicant has developed an effective project that fully addresses the needs of the workers and employers in the industries described in the **SUPPLEMENTARY INFORMATION**: Part B. of this SGA. Factors considered in evaluating the proposed strategies will include: (1) Comprehensiveness of the proposed workforce development strategies, (2) demonstrated feasibility for aligning partners to achieve the proposed training and employment outcomes, (3) demonstration of how the proposed project builds on existing work in order to expeditiously begin or expand training activities, and (4) a demonstration of how partnerships and training will be sustained beyond the life of the grant. In this section, applicants must:

• Summarize the proposed strategies and demonstrate how strategies address the needs and challenges of one or more of the energy efficiency and renewable energy industries and occupations discussed in the Statement of Need (10 points).

• Fully describe the specific roles of the project partners at all levels, including services, expertise, and activities that partners will contribute to successfully train and place workers in employment. Applicants should provide, for each local area served, a letter of commitment that describes the roles and responsibilities of, and is signed by each required partner (10 points).

• Fully describe proposed recruitment, training, placement, and retention strategies (10 points).

Recruitment: The applicant must provide a comprehensive outreach and recruitment strategy that defines a clear process for finding and referring workers to the training programs. Projects serving communities undergoing auto industry related restructurings must explain specifically how incumbent workers, individuals in need of updated training related to the energy efficiency and renewable energy industries, and unemployed auto workers will be referred to training.

Training: DOL encourages applicants to base their training strategies on program models that have shown promising outcomes for serving targeted populations. The applicant must provide a full and detailed explanation of the proposed training activities, including integration of supportive services, how the training will address skills and competencies demanded by the selected industries and occupations, and may lead to an appropriate industry-recognized degree or certificate (see definition in Section VI.B.2, Award Administration Information). Applicants must clearly identify the types of training to be provided (e.g. on-the-job training, customized training, pre-apprenticeship, registered apprenticeship), and the entities that will provide training for each specific local area where grant-funded activities will be conducted. Keeping in mind the requirement that training activities begin expeditiously, the applicant must fully explain how the project will replicate, adapt, or use components of existing curricula, or training models, including registered apprenticeship standards, that lead to industry-recognized degrees or certificates. Where industry-recognized degrees or certificates are not available for the proposed training activities, applicants should demonstrate how the project will provide participants with evidence of the skills and experience acquired through the grant-funded activities. Applicants proposing to develop new training curricula and strategies, registered apprenticeship standards, or other training models must fully articulate the need to engage in these activities as opposed to using or adapting existing curricula, registered apprenticeship standards, or training strategies or models, and must explain how these products will be used during the period of performance as part of training strategies for participants served through grant-funded activities.

Placement: The applicant must provide a clear strategy for placing participants into employment. The applicant should fully describe the approaches for engaging employers, identifying specific job needs, and referring participants to employers. Wherever possible, the applicant should identify specific employers that have made commitments to hire project participants that complete training. Applicants are encouraged to discuss linkages with regional projects funded by other Federal agencies through the Recovery Act that will generate employment opportunities and lead to placement for workers served through grant-funded activities.

Retention: The applicant must provide a clear retention strategy for participants that are placed into jobs. This should include strategies for engaging employers, as well as for identifying the barriers to employment that participants face after placement and for providing them with supportive services to address these barriers.

• *Leveraged Resources (5 points):* Applicants should clearly and fully describe any funds and other resources that will be leveraged to support grant activities and how these funds and other resources will be used to contribute to the proposed outcomes for the project, including any leveraged resources related to the provision of supportive services for program participants. This includes funds and other resources leveraged from businesses, labor organizations, education and training providers, and/or Federal, state, and local government programs. Applicants will be scored based on the extent to which they fully demonstrate the amount of leveraged resources provided, the type(s) of leveraged resources provided, the strength of commitment to provide these resources, the breadth and depth of the resources provided, and how well these resources support the proposed grant activities.

ii. Project Work Plan (15 points). Applicants can earn up to 15 points based on the presentation of a comprehensive project work plan based on reasonable performance estimates. Factors considered in evaluating the project work plan will include: (1) The presentation of a full and coherent plan that demonstrates the applicant's complete understanding of all the activities, responsibilities, and costs required to implement each phase of the project and achieve projected outcomes; (2) the demonstrated feasibility and reasonableness of accomplishing all necessary implementation activities, including the ability to begin or expand training expeditiously; and (3) the

extent to which the budget aligns with the proposed work plan and is justified with respect to the adequacy and reasonableness of resources requested. Applicants must present the work plan in a table that includes the following information:

• *Project Phases:* Lay out the project in four phases: Startup (including development or modification of curriculum or apprenticeship standards, if appropriate), Recruitment, Training, Placement, and Retention.

• *Activities:* Fully identify the major activities required to implement each phase of the project. For each activity, include the following information: Start Date; End Date; and Partner Organization Responsibility. List the project partner(s) that will be primarily responsible for performing each activity.

• *Milestones:* List the target dates and associated training outcomes projected for recruitment, training, and placement activities.

• *Budget Allocations:* As accurately as possible, list the total amounts for each of the four project phases, including the sub-total budget dollar amount associated with each activity.

4. *Outcomes and Deliverables (15 points):* Applicants must clearly demonstrate a results-oriented approach to managing and operating their project by fully describing the proposed project goals. Applicants may earn up to 15 points for fully and comprehensively addressing each of the following areas.

i. Projected Performance Outcomes

Applicants must provide projections and track outcomes for each of the following outcome categories for all participants served with grant funds:

• Total participants served;

• Total number of participants beginning education/training activities;

• Total number of participants completing education/training activities;

• Total number of participants that complete education/training activities that receive a degree or certificate;

• Total number of participants that complete education/training activities that are placed into unsubsidized employment;

• Total number of participants that complete education/training activities that are placed into training-related unsubsidized employment; and

• Total number of participants placed in unsubsidized employment who retain an employed status at the first and second quarters following initial placement.

Please note that applicants will need to be prepared to collect participant-level data on individuals who receive training and other services provided through the grant. These data should be the basis for reporting against the outcomes listed above, and may be required for reporting on other employment-related outcomes in the future. ETA will provide appropriate technical assistance to the grantees in collecting these data, including the development of a participant tracking system for the grantees. Please note that in some cases, the data requested below may require appropriate partnerships with state and local workforce investment system entities.

Applicants will be required to collect participants' social security numbers as part of individual level data collection. Social security numbers will be used for the calculation of employment history and program outcomes. It is anticipated that by collecting social security numbers of participants, ETA will be able to calculate most employment outcomes administratively through the use of Unemployment Insurance wage record information. Applicants must ensure that social security numbers will be maintained in a secure and confidential manner.

Applicants should be prepared to collect and report participant-level data from the following categories:

• Demographic and socioeconomic characteristics

• Employment history

• Services provided

• Outcomes achieved

Applicants should describe their capacity to collect both participant level data and aggregate outcomes.

ii. Degrees or Certificates: Project activities leading to a degree or certificate must clearly identify the degree or certificate that participants will earn as a result of the proposed training, and the employer-, industry- or State-defined standards associated with the degree or certificate. If the degree or certificate targeted by the training project is performance-based, applicants should either (a) demonstrate employer engagement in the curriculum development process; or (b) demonstrate that the degree or certificate will translate into concrete job opportunities with an employer.

iii. Appropriateness and Feasibility. The appropriateness and feasibility of project outcomes will be assessed based on three factors: (1) The extent to which the expected project outcomes are clearly identified and measurable, realistic and consistent with the objectives of the project; (2) the ability and likelihood of the applicant to achieve the Stated outcomes and report results within the timeframe of the grant; and (3) the appropriateness of the outcomes with respect to the requested level of funding.

iv. Deliverables. If applicable, applicants must provide a comprehensive list of expected deliverables consistent with the project work plan that includes a brief description of the deliverable (such as new or updated curriculum or apprenticeship standards), the anticipated completion date, and an estimated timeframe and method for electronic delivery to ETA. Electronic delivery may include e-mail for smaller documents, DVDs or other electronic media for transmission of larger files.

5. Suitability for Evaluation (5 points).

Under this Solicitation, the Department of Labor seeks to support programs that will provide training that improves participants' employment outcomes. The Department is committed to evaluating program results to assess whether programs meet this goal and which models are most effective, providing a basis for future program improvements and funding decisions. The Department intends to select some portion of grantees to participate in a rigorous evaluation. This section asks for evidence that applicants will be able to participate productively in an evaluation. To receive points under this section, applicants must describe their plans for meeting the following criteria. Specifically, the project must:

• Explain a recruitment plan that could yield a large number of qualified applicants for the program, and potentially more applicants than the number of positions available;

• Be able to collect participant-level information on individuals who apply to participate in the program;

• Have project retention strategies to minimize client attrition and help researchers track those who leave the program before completion;

• Work collaboratively with an outside evaluator selected by the Department of Labor;

• Be willing to work with academics who are independent researchers qualified to conduct rigorous research; and,

• Provide additional information about why funding this proposal will enhance knowledge about effective programs in a way that has the potential to benefit individuals and communities not directly served by the program.

B. Review and Selection Process

Applications for grants under this solicitation will be accepted after the publication of this announcement until the closing date. A technical review panel will make careful evaluation of applications against the criteria. These

criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, based on the required information described in Section V.A. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as geographic balance (including urban and rural balance); balance across the energy efficiency and renewable energy industries; representation across the two applicant pools; representation among communities impacted by automotive industry restructuring; and 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 government 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.*

VI. Award Administration Information

A. Award Notices: All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution and non-selected applicants will be notified by mail.

Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, DOL/ETA 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.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements: All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions:

i. Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

ii. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

iii. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR part 97 (Administrative Requirements).

iv. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 (Cost Principles), and 29 CFR part 95 (Administrative Requirements).

v. All entities must comply with 29 CFR parts 93 and 98, and, where applicable, 29 CFR parts 96 and 99.

vi. 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.

vii. 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.

viii. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

ix. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

x. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

xi. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

The following administrative standards and provisions may be applicable:

i. The American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, Division A, Title VIII (February 17, 2009).

ii. The Green Jobs Act of 2007, Public Law 110–140, 121 Stat. 1748 (codified at 29 U.S.C. 2916).

iii. The Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 939 (codified as amended at 29 U.S.C. 2801 *et seq.*) and 20 CFR part 667 (General Fiscal and Administrative Rules).

iv. 29 CFR part 29 & 30—Apprenticeship Equal Employment Opportunity in Apprenticeship and Training; and

v. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

• The Department notes that the Religious Freedom Restoration Act (RFRA), 42 U.S.C. 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.

vi. Ensuring the Health and Safety of Participants Under WIA Section 181(a)(4)—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in training and other activities. Applicants that are awarded grants through this SGA are reminded that these health and safety standards apply to participants in these grants.

In accordance with Section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 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. Except as specifically provided in this SGA, DOL/ETA's acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, the 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/ETA's 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.

2. Special Program Requirements.

i. Evaluation: To measure the impact of grants funded under the SGA, ETA intends to fund one or more independent evaluations, which could include a random-assignment impact evaluation. By accepting funding, grantees must agree to participate in such an evaluation, should their site(s) be selected to participate. Grantees must agree to make records on participants, employers, and funding available and to provide access to program personnel

and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

ii. Sustainability: Grantees must allow adequate time during the period of performance to conduct sustainability planning that involves the public workforce system and other key partners, where appropriate, to help ensure that their strategic partnership(s) and core training, placement, and retention activities, or labor market information and exchange activities, are sustained after the grant ends. Grantees will be required to submit a written sustainability plan to ETA prior to the end of the grant. Grantees are reminded that the expenditure of any grant funds on activities related to sustainability and sustainability planning must be consistent with the grantees' statement of work, and in accordance with all relevant rules and regulations that apply to their grants. When expending grant funds on activities related to sustainability and sustainability planning, grantees are reminded that they must adhere to Federal rules and regulations on outreach, fundraising, lobbying, and all other relevant and applicable rules and regulations.

iii. Definition of Certificate:—A certificate is awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are based on standards developed or endorsed by employers. Certificates awarded by workforce investment boards are not included in this definition. Work readiness certificates are also not included in this definition. A certificate is awarded in recognition of an individual's attainment of technical or occupational skills by:

- A State educational agency or a State agency responsible for administering vocational and technical education within a State.
- An institution of higher education described in Section 102 of the Higher Education Act (20 U.S.C. 1002) that is qualified to participate in the student financial assistance programs authorized by Title IV of that Act. This includes community colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in Federal student financial aid programs.
- A professional, industry, or employer organization (e.g., National Institute for Automotive Service Excellence certification, National Institute for Metalworking Skills, Inc., Machining Level I credential) or a product manufacturer or developer (e.g., Microsoft Certified Database Administrator, Certified Novell Engineer, Sun Certified Java Programmer) using a valid and reliable assessment of an individual's knowledge, skills, and abilities.
- A registered apprenticeship program.
- A public regulatory agency, upon an individual's fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to use an occupational or professional title or to practice an occupation or profession (e.g., FAA aviation mechanic certification, State certified asbestos inspector).
- A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons.
- Job Corps centers that issue certificates.
- Institutions of higher education which are formally controlled, or have been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes.

iv. Definitions of Populations and Other Key Terms: Organizations submitting an application in response to this SGA should use the following definitions for any of the following populations and/or other key terms that are specifically identified in this SGA.

- *High school drop-outs:* For the purposes of this SGA, ETA defines ''high school drop-out'' as an individual who is no longer attending any secondary school and who has not received a secondary school diploma or its recognized equivalent.
- *Individuals in need of updated training related to the energy efficiency and renewable energy industries:* For the purposes of this SGA, this term refers to individuals who are currently employed; or were terminated or laid-off or have received a notice of termination or lay-off from employment; or were self-employed but are now unemployed; and can benefit from training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information: Part B of this SGA.
- *Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency:* For the purposes of this SGA, ETA defines this term as individuals who reside in high poverty areas (which are areas where the poverty rate is 15% or greater), have no or low incomes, and who can benefit from skill training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information: Part B of this SGA.
- *Individuals with a criminal record:* For the purposes of this SGA, ETA defines this term as an individual who is or has been subject to any stage of the juvenile or criminal justice process, for whom services under this Act may be beneficial; or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. ETA includes individuals with a juvenile or criminal record in the definition for this term.
- *Unemployed individuals:* For the purposes of this SGA, ETA defines ''unemployed individual'' as an individual who is without a job and who wants and is available to work.
- *Veterans:* For the purposes of this solicitation, ETA follows the WIA definition of veteran under 29 U.S.C. 2801(49)(A), which defines the term ''veteran'' as ''an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.'' Active military service includes full-time duty (other than full-time duty for training purposes) in Reserve components ordered to active duty, or in National Guard units called to Federal Service by the President.
- *Workers impacted by national energy and environmental policy:* For the purposes of this SGA, ETA defines this term as individuals who: (1) Are currently employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and have received a notice of termination or lay-off from employment; or (2) were employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and are now unemployed.
- *National labor-management organization:* A national labor-

management organization is a nonprofit entity, such as a training fund, training trust fund, or an education trust fund, with joint participation of employers and labor organizations on its executive board or comparable governing body. This entity must have a formalized agreement between the employer(s) and labor organization(s) to operate a joint labor management training program(s) in multiple sites across the country through the state, local, or regional networks affiliated with the nonprofit entity.

• *U.S. territories:* For the purposes of this SGA, the term ''U.S. territories'' includes the Commonwealth of Puerto Rico, as well as the following outlying areas: the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

3. American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) Provisions.

Prospective applicants are advised that, if they receive an award, they must comply with all requirements of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5]. Applicants are advised to review the Act and implementing OMB guidance in the development of their proposals. Requirements include, but are not limited to:

i. Adherence to all grant clauses and conditions as they relate to Recovery Act activity.

ii. Prohibition on expenditure of funds for activities at any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

iii. Compliance with the requirements to obtain a D–U–N–S® number and register with the Central Contractor Registry (CCR). ETA will issue additional guidance related to this requirement shortly.

iv. Submission of required reports in accordance with Section 1512 of the Recovery Act. These reports will be due quarterly within 10 days of the end of the reporting period and are in addition to the ETA required reports addressed in Section VI.C of this SGA. ETA will issue additional guidance related to these reports and their submission requirements shortly.

Implementing OMB guidance may be found at *http://www.recovery.gov.*

C. Reporting: Quarterly financial reports, quarterly progress reports, and MIS data will be submitted by the grantee electronically. The grantee is required to provide the reports and documents listed below:

• Quarterly Financial Reports. A Quarterly Financial Status Report (ETA 9130) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 45 days after the end of each calendar year quarter. Grantees must use DOL's On-Line Electronic Reporting System and information and instructions will be provided to grantees.

• Quarterly Performance Reports. The grantee must submit a quarterly progress report within 45 days after the end of each calendar year quarter. In order to submit these quarterly reports, grantees will be expected to track participant-level data regarding the individuals that are involved in training and other services provided through the grant and report on participant status in a variety of fields and outcome categories, as well as provide narrative information on the status of the grant. The last quarterly progress report that grantees submit will serve as the grant's Final Performance Report. This report should provide both quarterly and cumulative information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project, and should thoroughly document the training or labor market information approaches used by the grantee. DOL will provide grantees with formal guidance regarding data and other information that is required to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements.

• Record Retention. Applicants should be aware of Federal guidelines on record retention, which require grantees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

VII. Agency Contacts

For further information regarding this SGA, please contact Janice Sheelor, Grants Management Specialist, Division of Federal Assistance, at (202)–693–3538 (This is not a toll-free number). Applicants should e-mail all technical questions to *Sheelor.Janice@dol.gov* and must specifically reference SGA/DFA PY 08–18, and along with question(s), include a contact name, fax and phone number. This announcement is being made available on the ETA Web site at *http://www.doleta.gov/grants* and at *http://www.grants.gov.*

VIII. Additional Resources of Interest to Applicants

A. Other Web-Based Resources

DOL maintains a number of Web-based resources that may be of assistance to applicants. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One Stop Career Centers.

B. Industry Competency Models

ETA supports an Industry Competency Model Initiative to promote an understanding of the skill sets and competencies that are essential to an educated and skilled workforce. A competency model is a collection of competencies that taken together define successful performance in a particular work setting. Competency models serve as a starting point for the design and implementation of workforce and talent development programs. To learn about the industry-validated models visit the Competency Model Clearinghouse (CMC) at *http://www.careeronestop.org/CompetencyModel/.* The CMC site also provides tools to build or customize industry models, as well as tools to build career ladders and/or lattices leading to career pathways.

C. Federal Collaboration

DOL encourages other Federal partners to recommend or require, where appropriate, that organizations receiving Recovery Act funding list jobs created with their State public labor exchange. The Department is developing specific strategies to link job listings, training opportunities and placement among programs funded by the Departments of Housing and Urban Development, Energy, and Education. Where the grantee is not the public workforce system, they are strongly encouraged to work with local One Stop Career Centers to make these connections.

D. Links to Federal Recovery Sites

For specific information on a range of Federal agency Recovery Act activities and funding opportunities, please access the following Web sites:

• *Department of Education: http://www.ed.gov/policy/gen/leg/recovery/index.html*

• *Department of Energy: http://www.doe.gov/recovery*

• *Department of Housing and Urban Development: http://www.hud.gov/recovery*

• *Department of Transportation: http://www.dot.gov/recovery/*

• *Environmental Protection Agency: http://www.epa.gov/recovery*

E. Promising Training Approaches

ETA encourages applicants to research promising training approaches in order to inform their proposals. The following list of Web sites provides a starting place for this research, but by no means should be considered a complete list:

- ETA's home site (*http://www.doleta.gov*) and the ETA Research Publication Database (*wdr.doleta.gov/research/keyword.cfm*).
- ETA's knowledge sharing site (*http://www.workforce3one.org*), including the ''workforce solutions'' section that contains over 6,000 additional resources applicants may find valuable in developing workforce strategies and solutions.
- The National Governors Association Center for Best Practices (*http://www.nga.org*).
- The National Association of State Workforce Agencies (*http://www.workforceatm.org*).
- The National Association of Workforce Boards (*http://www.nawb.org*).

IX. 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 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 OMB Desk Officer for ETA, Department of Labor, in the Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the 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 SGA will be used by DOL 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.

Signed at Washington, DC, this 19th day of June, 2009.

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. E9–14924 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

American Reinvestment and Recovery Act of 2009; Notice of Availability of Funds and Solicitation for Grant Applications for Green Capacity Building Grants

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY–08–21.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.275.

DATES: *Key Dates:* The closing date for receipt of applications under this announcement is August 5, 2009. Applications must be received no later than 4 p.m. Eastern Time. A pre-recorded Webinar will be made available online at *http://www.workforce3one.org* to prospective applicants for this grant competition on July 10, 2009 by 3 p.m. Eastern Time, and will be available for viewing anytime after that date as well. While a review of this webinar is encouraged, it is not mandatory. Access information for the Webinar will be posted on the Employment and Training Administration (ETA) Web site listed above.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment & Training Administration, Division of Federal Assistance, Attention: B. Jai Johnson, Grants Officer, Reference SGA/DFA PY 08–21, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. For complete ''Application and Submission Information,'' please refer to Section IV.

SUMMARY: Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act), the Department of Labor (DOL or the Department) announces the availability of approximately $5 million in grant funds for projects that build the capacity of DOL-funded training programs to ensure that targeted groups are prepared to meet the needs of our country's expanding green industries. Only active DOL-funded grantees specified in Part III of this SGA are eligible to apply. Specifically, this SGA supports capacity building for organizations to provide training for entry-level positions leading to career pathways and/or additional training in the energy efficiency and renewable energy industries described in Section 171(e)(1)(B) of the Workforce Investment Act of 1998 (WIA). The Department expects to award between 50 and 100 grants under this competition, providing awards ranging from $50,000 to $100,000.

SUPPLEMENTARY INFORMATION:

A. Recovery Act: Competitive Grants for Green Job Training

This section of the SGA provides general background on the American Recovery and Reinvestment Act of 2009 (Recovery Act), the competitive grants funded through the Recovery Act to prepare workers for careers in the energy efficiency and renewable energy, and the occupations and industries on which these grants should focus. On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 (Recovery Act) through which Congress intended to preserve and create jobs, promote the nation's economic recovery, and assist those most impacted by the recession. Among other funding directed toward the Department of Labor, the Recovery Act provides $750 million for a program of competitive grants for worker training and placement in high growth and emerging industries. Of the $750 million allotted for competitive grants, the Recovery Act designates $500 million for projects that prepare workers for careers in the energy efficiency and renewable energy industries described in Section 171(e)(1)(B) of the Workforce Investment Act (WIA). DOL intends to use a portion of the $500 million for providing technical assistance for this program of grants.

The purpose of these green job training grants is to teach workers the skills required in emerging energy efficiency and renewable energy industries. These efforts will lead program participants to job placement while leveraging other Recovery Act investments intended to create jobs and promote economic growth. For additional information about the series of competitive grants for green job training, please refer to Training and Employment Notice (TEN) 44–08 available at *http://www.doleta.gov/Recovery/legislation.cfm*.

B. Green Industries and Occupations

The Department will award grants to workforce development projects that focus on connecting target populations, including auto and auto-related industry workers affected by significant automotive-related restructurings, to career pathways in green industries. Training programs will prepare individuals for careers in any of the seven energy efficiency and renewable energy industries defined in Section 171(e)(1)(B)(ii) of the WIA, which include:

- The energy-efficient building, construction, and retrofit industries;
- The renewable electric power industry;
- The energy efficient and advanced drive train vehicle industry;
- The biofuels industry;
- The deconstruction and materials use industries;
- The energy efficiency assessment industry serving residential, commercial, or industrial industries; and
- Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

Additionally, the Department is interested in applicants contributing to our understanding of green industries and jobs that clean and enhance our environment. Initial research supported by the Department shows that there are ''growth, enhanced and emerging'' green occupations across a number of industries. Applicants may propose strategies that train for those occupations from among the following industries: Transportation; green construction; environmental protection; sustainable agriculture including healthy food production; forestry; and recycling and waste reduction (see O*NET report at *http://www.onetcenter.org/reports/Green.html*). The Department will consider proposals that focus on these occupations within these industries if applicants can offer supporting data demonstrating these are emerging industries which are producing jobs in their communities.

For the purpose of the SGAs, the Department defines energy efficiency and renewable energy as follows. Section 203(b)(2) of the Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 595, defines ''renewable energy'' as ''electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.'' ''Energy efficiency'' can be broadly defined as programs aimed at mitigating the use of energy, reducing harmful emissions, and decreasing overall energy consumption.

The Department of Labor's Bureau of Labor Statistics (BLS) is working to develop a definition for green industries and jobs, which will be used to ensure that workforce development efforts identify and target these green jobs and their training needs. The Department has also supported occupational research that begins to define green jobs, review industries impacted by green investments and understand how new green technology and materials will affect occupational requirements. The Occupational Information Network (O*NET) project has drafted a research paper titled, *Greening of the World of Work: Implications for O*NET–SOC and New and Emerging Occupations.* This study reflects three general categories of occupations, based on different consequences of green economy activities and technologies: (1) Existing occupations expected to experience primarily an increase in employment demand; (2) existing occupations with significant change to the work and worker requirements; and (3) new and emerging green occupations. This research may be used as a starting point for identifying green industries and occupations and informing the development of training and job placement programs. For a copy of the O*NET report and a listing of the identified occupations go to *http://www.onetcenter.org/reports/Green.html.*

C. Working With Other Recovery Act Programs

The Recovery Act made funds available to a number of other Federal programs that will impact the creation and expansion of green jobs. DOL is partnering with other Federal agencies to support the creation of jobs by developing a pipeline of skilled workers in the energy efficiency and renewable energy industries. Where possible, ETA encourages applicants to connect their workforce development strategies to other Recovery Act funded projects that create jobs or impact the skill requirements of existing jobs. ETA recommends that applicants review other parts of the Recovery Act, with a focus on the activities funded through the Department of Energy (Energy), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the Department of Education (Education) and others. For additional resources and information about our Federal partners, please see Section VIII, ''Additional Resources of Interest to Applicants.''

I. Funding Opportunity Description

Through this SGA, ETA will help individuals acquire the skills needed to enter and advance in green industries and occupations by building the capacity of active DOL-funded training programs to provide education and training in the key skills and competencies that are needed in these green industries and occupations.

Specifically, this SGA supports capacity building for organizations to provide training for entry-level positions leading to career pathways and/or additional training in the energy efficiency and renewable energy industries, as well as other green occupations within the detailed list of industries specified in Supplementary Information: Part B of this SGA. Grantees may bolster the capacity of their training programs through the purchase of equipment, staff professional development, curriculum development and/or adaptation, partnership development, and where necessary, the hiring of additional staff. Organizations that have already begun the integration of energy efficiency and renewable energy industries and other green job-related skill training into their programs may apply for funds to enhance their current efforts. These awards do not require an increase in enrollment in the existing DOL-funded training program. These funds will help organizations in building the infrastructure necessary to provide on-going training and job placement into green jobs after the grant funds have been expended.

It is critical that grantees consult with key industry and other stakeholders about current and future workforce needs. Further, grantees should work with key partners (described in Section V.A.1) to determine the specific enhancements they should make to their training programs.

Applicants are not limited in the strategies and approaches they may use to implement projects in this SGA, provided that the strategy is well developed, includes a strong partnership, and focuses on training to prepare workers for employment in the occupations and industries identified in Supplementary Information: Part B of this SGA, subject to funding restrictions described in this SGA and the grant agreement. Increasing the capacity of DOL grantees will enable them to provide training for green industries and

occupations through their existing DOL grants, and support green jobs-related projects funded through the Recovery Act and from other sources.

II. Award Information

A. Award Amount

Approximately $5 million is available to fund Green Capacity Building grants. The Department expects to award between 50 and 100 grants under this competition, providing awards ranging from $50,000 to $100,000. This does not preclude funding a smaller or larger number of projects, based on the type and the number of quality submissions.

B. Period of Performance

The period of grant performance will be up to 12 months from the date of execution of the grant documents. This performance period includes all necessary implementation and start-up activities. The Department intends for all grantees funded under this SGA to implement projects as soon as possible. Further, applicants should plan to fully expend grant funds during the period of performance, while ensuring full transparency and accountability for all expenditures.

III. Eligibility Information

A. Eligible Applicants

DOL intends to build the green training capacity of our current grantees, therefore, eligible applicants are limited to the following DOL grantees who received funding through the SGA number indicated in the parentheses: Indian and Native American Program (SGA/DFA PY 07–04), National Farmworker Jobs Program (NFJP) (SGA/DFA PY 06–04), Prisoner Re-Entry Initiative (PRI) (SGA/DFA PY 08–03 & SGA/DFA PY 07–05), Senior Community Service Employment Program (SCSEP) (SGA/DFA PY 07–02 & SGA/DFA PY 05–06), Women in Apprenticeship and Non-Traditional Occupations (WANTO) (SGA/DFA PY 07–08 & SGA/DFA PY 06–01), Advancing Registered Apprenticeship into the 21st Century: Collaborating for Success (SGA/DFA PY 08–11), YouthBuild (SGA/DFA PY 08–07 & SGA/DFA PY 06–08), and Young Offender Grants (SGA/DFA PY 08–09, SGA/DFA PY 06–10, & SGA/DFA PY 06–14).

Organizations with multiple DOL-funded training programs may only submit one application. That application should indicate which DOL-funded program(s) will be enhanced through capacity building activities supported by this Solicitation.

B. Cost Sharing

Cost sharing or matching funds are not required as a condition for application.

C. Other Eligibility Requirements

1. Participants Eligible to Receive Training

Grantees must use these grants to enhance their capacity to serve individuals who meet the eligibility requirements of their programs who need training in green industries and occupations. Given the participants that they serve through their existing grants, grantees should give priority for training and other services provided through these grants to individuals in the following categories:

- Workers impacted by national energy and environmental policy;
- Individuals in need of updated training related to the energy efficiency and renewable energy industries;
- Veterans;
- Unemployed individuals;
- Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency; and
- Individuals with a criminal record.

Other individuals, such as untapped labor pools and entry-level and incumbent workers that do not fit into the categories above, may also be served through these projects subject to the priority considerations given to the populations above and consistent with the populations to be served through the grantee's statements of work for their existing grant(s). For specific definitions for these target populations, applicants must refer to Section VI.B.

2. Veterans Priority

The Jobs for Veterans Act (Pub. L. 107–288) provides priority of service to 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 DOL. Grantees are required to provide priority of services for veterans and eligible spouses pursuant to 20 CFR part 1010, the regulations implementing priority of service for veterans and eligible spouses in Department of Labor job training programs under the Jobs for Veterans Act published at 73 FR 78132 on December 19, 2008. In circumstances where a grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that grant recipients give the veteran priority of service by admitting him or her into the program. Please note that to obtain priority of service a veteran must meet the program's eligibility requirements. Grantees must comply with DOL guidance on veterans' priority. Currently, ETA Training and Employment Guidance Letter (TEGL) No. 5–03 (September 16, 2003) provides general guidance on the scope of the Job for Veterans Act and its effect on current 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.*

3. Grantee Training

Grantees are required to participate in all ETA training activities related to orientation, financial management and reporting, performance reporting, product dissemination, and other technical assistance training as appropriate during the life of the grant. These trainings may occur via conference call, webinar, and in-person meetings. For budgeting purposes, grant recipients should allocate adequate staff time and travel resources to ensure participation at a two-day in-person event.

IV. Application and Submission Information

A. How to Obtain an Application Package

This SGA contains all the information and links to forms needed to apply for this funding opportunity.

B. Content and Form of Application Submission

The proposal will consist of three separate and distinct parts—(I) a cost proposal, (II) a technical proposal, and (III) attachments to the technical proposal. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be reviewed. Please note that it is the applicant's responsibility to ensure that the amount of funds requested is consistent across all parts and sub-parts of the application.

Part I. The Cost Proposal. The Cost Proposal must include the following four items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). 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 authorized representative of the applicant.

• Applicants must supply their D–U–N–S® Number on the SF 424. All applicants for Federal grant and funding opportunities are required to have a D–U–N–S® Number (Data Universal Numbering System). See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402, Jun. 27, 2003. The D–U–N–S® Number is a non-indicative, nine-digit number assigned to each business location in the D&B database having a unique, separate, and distinct operation, and is maintained solely by D&B. The D–U–N–S® Number is used by industries and organizations around the world as a global standard for business identification and tracking. If you do not have a D–U–N–S® Number, you can get one for free through the SBS site: *http://smallbusiness.dnb.com/webapp/wcs/stores/servlet/Glossary?fLink=glossary&footerflag=y&storeId=10001&indicator=7.*

• The SF 424A Budget Information Form (available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request, explained in detail below.

• *Budget Narrative:* The budget narrative must provide a description of costs associated with each line item on the SF–424A. In addition, the applicant should address precisely how the administrative costs support the project goals. The entire Federal grant amount requested should be included on both the SF 424 and SF 424A. Please note that applicants that fail to provide a SF 424, a SF 424A, a D–U–N–S® Number, and a budget narrative will be removed from consideration prior to the technical review process.

• Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found under the Grants.gov, Tips and Resources From Grantors, Department of Labor section at *http://www07.grants.gov/applicants/tips_resources_from_grantors.jsp#13* (also referred to as Faith Based EEO Survey PDF Form).

Part II. The Technical Proposal. The Technical Proposal will demonstrate the applicant's capability to implement the grant project in accordance with the provisions of this solicitation. The guidelines for the content of the Technical Proposal are provided in Part V.A of this SGA. The Technical Proposal is limited to 12 double-spaced single-sided pages with 12 point text font and 1 inch margins. Any materials beyond the 12-page limit will not be reviewed. Applicants should number the Technical Proposal beginning with page number 1. Applicants that do not provide Part II, the Technical Proposal of the application will be removed from consideration prior to the technical review process. Applications that do not meet these requirements will not be considered.

Part III. Attachments to the Technical Proposal. In addition to the 12-page Technical Proposal, the applicant must submit an Abstract, not to exceed one page, summarizing the proposed project including the applicant name, project title, a description of the area to be served, and the funding level requested. The one-page abstract does not count against the 12-page limit for the Technical Proposal. Additional materials such as resumes or general letters of support or commitment will not be read.

Applications may be submitted electronically on Grants.gov or in hardcopy via mail or hand delivery. These processes are described in further detail in Section IV.C. Applicants submitting proposals in hardcopy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hardcopy are also required to provide an identical electronic copy of the proposal on compact disc (CD).

C. Submission Process, Date, Times, and Addresses

The closing date for receipt of applications under this announcement is August 5, 2009. Applications must be received at the address below no later than 4 p.m. Eastern Time. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. 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.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: B. Jai Johnson, Grant Officer, Reference SGA/DFA, PY 08–21, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. 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. All applications through professional overnight delivery service will be considered to be hand-delivered and must be received at the designated place by the specified closing date and time.

Applicants may apply online through Grants.gov (*http://www.grants.gov*); however, due to the expected increase in system activity resulting from the American Recovery and Reinvestment Act of 2009, applicants are encouraged to use an alternate method to submit grant applications during this heightened period of demand. While not mandatory, DOL encourages the submission of applications through professional overnight delivery service.

Applications that are submitted through Grants.gov must be successfully submitted at *http://www.grants.gov* no later than 4 p.m. Eastern Time on August 5, 2009, 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.

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 strongly 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 email messages to provide the status of application progress through the system. The first email, almost immediate, will confirm receipt of the application by Grants.gov. The second email 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.

To ensure consideration, the components of the application must be saved as either .doc, .xls or .pdf files. If submitted in any other format, the applicant bears the risk that compatibility or other issues will prevent our ability to consider the application. ETA will attempt to open the document but will not take any additional measures in the event of issues with opening. In such cases, the non-conforming application will not be considered for funding.

Applicants are strongly advised to utilize the 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/email_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 4 p.m. Eastern Time on the closing date and successfully validated will be considered.

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, it was properly addressed, and it was: (a) Sent by U.S. Postal Service mail, postmarked 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) 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.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. 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. Successful and unsuccessful applicants will not be entitled to reimbursement of pre-award costs.

1. Indirect Costs

As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final 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 grant award.

2. Administrative Costs

Under this SGA, an entity that receives a grant to carry out a project or program may not use more than 5 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be direct or 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.

3. Use of Funds for Supportive Services

Grant funds may not be used for supportive services.

4. Salary and Bonus Limitations

Under Public Law 109–234 and Public Law 111–8, Section 111, none of the funds appropriated in Public Law 111–5 or prior Acts under the heading ''Employment and Training'' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. These limitations also apply to grants funded under this SGA. The salary and bonus limitation does not apply to vendors providing goods and services as defined in OMB Circular A–133. See Training and Employment Guidance Letter number 5–06 for further clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262*.

5. Intellectual Property Rights

The 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 rights of 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 are 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.

If applicable, the following needs to be on all products developed in whole or in part with grant funds:

''This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no

guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner.''

F. Use of Funds for Wage Subsidies

Grant funds awarded through this SGA shall not be used to subsidize the wages of program participants.

G. Other Submission Requirements

Withdrawal of Applications: Applications may be withdrawn by written notice at any time before an award is made.

V. Application Review Information

A. Evaluation Criteria

RITERION

Criterion	Points
1. Capacity Building Rationale	20
2. Strategy and Project Work Plan	65
i. Organizational capacity—10	
ii. Proposed strategies—55	
3. Outcomes and Deliverables	15
Total Points	100

Applicants will be evaluated on the completeness and quality of their submission. A total of 100 points may be achieved in accordance with the criteria articulated below. This section identifies and describes the criteria that will be used to evaluate the grant proposals. These criteria and point values are:

1. Capacity Building Rationale (20 Points)

The applicant must fully demonstrate that the proposed activities build capacity to deliver training and/or related services that are responsive to local or State green industry needs, and, if applicable are linked to overall green industry economic development efforts under way in the region, State, or community. Applicants should provide a complete description of the industries and occupations within those industries that the training will target, as well as the rationale for targeting industries and occupations, and outline the involvement of key organizations in informing capacity building activities.

Applicants should also fully describe how key organizations such as the State and local workforce system, employers and industry-related organizations (*e.g.*, trade associations, labor organizations, labor-management organizations), educational institutions, regional, State, or local consortiums or organizations that focus on green industries and occupations, foundations, research laboratories, and other key stakeholders in green initiatives have informed the proposed capacity building activities. Please describe which entities have and will be involved in all aspects of the project and how they have informed and enriched the process. Please describe how they are part of your region, State, and/or local strategy for energy efficiency and/or renewable energy job creation, green job training, and green economic development. Proposals will be evaluated using the following criteria:

i. Applicants must fully describe the specific industries and occupations on which their training will focus, including the specific knowledge, skills, and/or abilities required by the occupation.

ii. Applicants must demonstrate evidence of region, State, and/or local green industry need for training and, if applicable, how the proposed project is linked to green economic development efforts; and,

iii. Applicants must detail the role that key organizations have played or will play in determining the proposed enhancements and capacity building activities in your existing job training and placement programs.

2. Strategy and Project Work Plan (65 Points)

In this section the applicant must fully describe the activities that it will undertake to build or enhance the capacity of its organization to provide skills training for the target industries and occupations through its existing job training and placement programs, and their capacity for implementing these activities. This will ensure that targeted groups are prepared to meet the needs of our country's expanding green jobs-related industries.

Project activities leading to degrees and certificates must identify the degrees and certificates that participants will earn as a result of the proposed training, and the employer-, industry-, or State-defined standards associated with the degrees and certificates (See Section VI.B.3.ii for the definition of certificate).

i. Organizational Capacity (10 Points)

Applicant should fully demonstrate that they have the ability to implement and manage the capacity building activities described in this proposal. This includes providing a complete description of the applicant organization and its qualifications for running a job training and placement program. Applicants should describe the relevant experience of key staff and continuity of leadership, their ability to comply with the grant's fiscal and administrative requirements, and their capacity to track and report on the grant's programmatic performance. Applicants must indicate the duration of the job training and placement activities that will be offered once the capacity building activities/strategies described in this application are completed. Proposals will be evaluated using the following criteria:

- The demonstration by the applicant that they have the capacity to accomplish the goals and outcomes of the project as demonstrated by the experience of the key staff and continuity of leadership;
- The demonstration by the applicant that they have the capacity to comply with the grant's fiscal and administrative requirements, and to track and report on the grant's programmatic performance.

ii. Proposed Capacity Building Strategies (55 Points)

In this section, the applicant should provide a complete description of how it will modify all or a portion of its existing job training and placement programs to support skills training for the energy efficiency and renewable energy industries or within other green industries. ETA is interested in applicants describing any evidence-based research that they considered in designing the strategy. Some potential activities include but are not limited to:

- Professional development opportunities in the energy efficiency and renewable energy industries for staff;
- Modifications to existing curriculum and/or teaching methodologies;
- The purchase of equipment that will contribute to continued training after the funding under this award is expended;
- Training provided for industry-recognized entry-level credentials for program participants;
- Strategies that support the development of clear pathway options and job placement for program participants into the energy efficiency and renewable energy industries or within other green industries; and
- Specific skills and competencies that will be integrated into the job-training program and how these support

growth in green energy career pathways for project participants.

Proposals will be evaluated using the following criteria:

- Applicants should provide a complete description of their capacity building activities including (1) professional development opportunities in the energy efficiency and renewable energy industries or within other green industries provided to key staff; (2) key equipment that will build the capacity of the organization to provide training in the key industries and occupations; and (3) curriculum and/or teaching methodology modifications based on input from partners identified in Section V.A.1;
- Applicant shall provide a description of the industry recognized credentials (if applicable) to be awarded and how training for these credentials will be provided to program participants;
- Applicant shall demonstrate that the skills and competencies integrated into existing training programs are related to the proposed industry or occupation targeted.
- Applicants should provide a complete description of their strategy to sustain the core training and placement activities in their project after grant funds are expended.
- Applicants should provide a timeline that outlines a schedule for the key capacity building activities that will take place during the period of performance.

3. Outcomes and Deliverables (15 Points)

Applicants must demonstrate a results-oriented approach to managing and operating their project by fully describing the proposed outcome data measures that impact the success of the project, as well as the products and deliverables that will be produced as a result of the grant activities. In this section, applicants should identify specific outcomes that will occur as a direct result of grant-funded activities and how appropriate outcomes will be tracked. Points will be awarded based on the criteria below.

The applicant should list outcomes for capacity building activities, and the projected date the product(s) will be completed. Outcomes for capacity building activities include, but are not limited, to:

- Curriculum, course materials or competency models and career ladders developed or updated with grant funds;
- The number of instructors projected to participate in capacity building activities;
- The number of individuals projected to be trained by these instructors; and
- The estimated number of other individuals (besides these students and instructors) projected to participate and/or benefit from capacity building activities. For example, the number of individuals who will use equipment purchased through this grant.

If applicable, applicants must provide a list of expected deliverables that will be developed with grant funds during the grant's period of performance that is consistent with the project activities that includes a brief description of the deliverable (such as updated curriculum and outreach materials), the anticipated completion date, and an estimated timeframe and method for electronic delivery to ETA. Electronic delivery may include email for smaller documents, DVDs or other electronic media for transmission of larger files.

B. Review and Selection Process

Applications for grants under this solicitation will be accepted after the publication of this announcement until the closing date. A technical review panel will make careful evaluation of applications against the criteria. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, based on the required information described in Section V.A. 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; representation across eligible grant programs; 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 government 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*.

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution and non-selected applicants will be notified by mail. Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, ETA 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.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions:

i. Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

ii. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).

iii. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR part 97 (Administrative Requirements).

iv. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 (Cost Principles), and 29 CFR part 95 (Administrative Requirements).

v. All entities must comply with 29 CFR parts 93 and 98, and, where applicable, 29 CFR parts 96 and 99.

vi. 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.

vii. 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.

viii. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

ix. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

x. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

xi. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

The following administrative standards and provisions may be applicable

i. The American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, Division A, Title VIII (February 17, 2009).

ii. The Green Jobs Act of 2007, Public Law 110–140, 121 Stat. 1748 (codified at 29 U.S.C. 2916).

iii. The Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 939 (codified as amended at 29 U.S.C. 2801 *et seq.*) and 20 CFR part 667 (General Fiscal and Administrative Rules;

iv. 29 CFR part 29 & 30—Apprenticeship & Equal Employment Opportunity in Apprenticeship and Training;

v. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998:

• 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.

vi. Ensuring the Health and Safety of Participants Under WIA Section 181(a)(4)—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in training and other activities. Applicants that are awarded grants through this SGA are reminded that these health and safety standards apply to participants in these grants.

In accordance with Section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 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.

Except as specifically provided in this SGA, ETA's acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, the 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 ETA's 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.

2. Special Program Requirements

i. *Evaluation:* To measure the impact of grants funded under the SGA, ETA intends to fund one or more independent evaluations. By accepting funding, grantees must agree to participate in such an evaluation, should they be selected to participate. Grantees must agree to make records on participants, employers, and funding available and to provide access to program personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

ii. *Definition of Certificate:* A certificate is awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are based on standards developed or endorsed by employers. Certificates awarded by workforce investment boards are not included in this definition. Work readiness certificates are also not included in this definition. A certificate is awarded in recognition of an individual's attainment of technical or occupational skills by:

• A State educational agency or a State agency responsible for administering vocational and technical education within a State.

• An institution of higher education described in Section 102 of the Higher Education Act (20 U.S.C. 1002) that is qualified to participate in the student financial assistance programs authorized by Title IV of that Act. This includes community colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in Federal student financial aid programs.

• A professional, industry, or employer organization (*e.g.,* National Institute for Automotive Service Excellence certification, National Institute for Metalworking Skills, Inc., Machining Level I credential) or a product manufacturer or developer (*e.g.,* Microsoft Certified Database Administrator, Certified Novell Engineer, Sun Certified Java Programmer) using a valid and reliable assessment of an individual's knowledge, skills, and abilities.

• A registered apprenticeship program.

• A public regulatory agency, upon an individual's fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to use an occupational or professional title or to practice an occupation or profession (*e.g.,* FAA aviation mechanic certification, State certified asbestos inspector).

• A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons.

• Job Corps centers that issue certificates.

• Institutions of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes.

iii. *Definitions of Populations and Other Key Terms*

Organizations submitting an application in response to this SGA should use the following definitions for any of the following populations and/or other key terms that are specifically identified in this SGA:

• *High school drop-outs:* For the purposes of this SGA, ETA defines ''high school drop-out'' as an individual who is no longer attending any secondary school and who has not received a secondary school diploma or its recognized equivalent.

• *Individuals in need of updated training related to the energy efficiency and renewable energy industries:* For the purposes of this SGA, this term refers to individuals who are currently employed; or were terminated or laid-off or have received a notice of termination or lay-off from employment; or were self-employed but are now unemployed; and can benefit from training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information: Part B of this SGA.

• *Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency:* For the purposes of this SGA, ETA defines this term as individuals who reside in high poverty

areas (which are areas where the poverty rate is 15% or greater), have no or low incomes, and who can benefit from skill training that will help them enter or advance in the energy efficiency and renewable energy industries identified in WIA section 171(e)(1)(B)(ii), and/or will enable them to acquire or enhance skills needed to enter occupations within one or more of the ''growth, enhanced, and emerging'' green industries referenced in Supplementary Information: Part B of this SGA.

• *Individuals with a criminal record:* For the purposes of this SGA, ETA defines this term as an individual who is or has been subject to any stage of the juvenile or criminal justice process, for whom services under this Act may be beneficial; or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. ETA includes individuals with a juvenile or criminal record in the definition for this term.

• *Unemployed individuals:* For the purposes of this SGA, ETA defines ''unemployed individual'' as an individual who is without a job and who wants and is available to work.

• *Veterans:* For the purposes of this solicitation, ETA follows the WIA definition of veteran under 29 U.S.C. 2801(49)(A), which defines the term ''veteran'' as ''an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.'' Active military service includes full-time duty (other than full-time duty for training purposes) in Reserve components ordered to active duty, or in National Guard units called to Federal Service by the President.

• *Workers impacted by national energy and environmental policy:* For the purposes of this SGA, ETA defines this term as individuals who: (1) Are currently employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and have received a notice of termination or lay-off from employment; or (2) were employed in an occupation in the utilities; transportation and warehousing; manufacturing; construction; mining, quarrying, and oil and gas extraction; or other sectors that have been adversely affected by national energy and environmental policies; and are now unemployed.

• *National labor-management organization:* A national labor-management organization is a nonprofit entity, such as a training fund, training trust fund, or an education trust fund, with joint participation of employers and labor organizations on its executive board or comparable governing body. This entity must have a formalized agreement between the employer(s) and labor organization(s) to operate a joint labor management training program(s) in multiple sites across the country through the state, local, or regional networks affiliated with the nonprofit entity.

3. American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) Provisions

Prospective applicants are advised that, if they receive an award, they must comply with all requirements of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5]. Applicants are advised to review the Act and implementing OMB guidance in the development of their proposals. Requirements include, but are not limited to:

• Adherence to all grant clauses and conditions as they relate to Recovery Act activity.

• Prohibition on expenditure of funds for activities at any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

• Compliance with the requirements to obtain a D–U–N–S® Number and register with the Central Contractor Registry (CCR). ETA will issue additional guidance related to this requirement shortly.

• Submission of required reports in accordance with Section 1512 of the Recovery Act. These reports will be due quarterly within 10 days of the end of the reporting period and are in addition to the ETA required reports addressed in Section VI of this SGA. ETA will issue additional guidance related to these reports and their submission requirements shortly.

Implementing OMB guidance may be found at *http://www.recovery.gov.*

C. Reporting

The grantee is required to provide the reports and documents listed below:

1. Quarterly Financial Reports

A Quarterly Financial Status Report (SF 9130) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 45 days after the end of each calendar year quarter, including the last calendar quarter of the grant period. Grantees must use ETA's On-Line Electronic Reporting System. A Closeout Financial Status Report is due 90 days after the end of the grant period.

2. Quarterly Performance Reports

The grantee must submit a quarterly progress report within 45 days after the end of each calendar year quarter. In order to submit these quarterly reports, grantees will be expected to track participant-level data regarding the individuals that are involved in training and other services provided through the grant and report on participant status in a variety of fields and outcome categories, as well as provide narrative information on the status of the grant. The last quarterly progress report that grantees submit will serve as the grant's Final Performance Report. This report should provide both quarterly and cumulative information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project, and should thoroughly document the training or labor market information approaches utilized by the grantee. DOL will provide grantees with formal guidance regarding data and other information that is required to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements.

3. Record Retention

Applicants should be aware of Federal guidelines on record retention, which require grantees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

VII. Agency Contacts

For further information regarding this SGA, please contact Denise Roach, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3820 (This is not a toll-free number). Applicants should e-mail all technical questions to *roach.denise@dol.gov* and must specifically reference SGA/DFA PY 08–21, and along with question(s), include a contact name, fax and phone number.

This announcement is being made available on the ETA Web site at *http://www.doleta.gov/grants* and at *http://www.grants.gov.*

VIII. Additional Resources of Interest to Applicants

A. Other Web-Based Resources

DOL maintains a number of Web-based resources that may be of assistance to applicants. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One Stop Career Centers.

B. Industry Competency Models

ETA supports an Industry Competency Model Initiative to promote an understanding of the skill sets and competencies that are essential to an educated and skilled workforce. A competency model is a collection of competencies that taken together define successful performance in a particular work setting. Competency models serve as a starting point for the design and implementation of workforce and talent development programs. To learn about the industry-validated models visit the Competency Model Clearinghouse (CMC) at *http://www.careeronestop.org/CompetencyModel.* The CMC site also provides tools to build or customize industry models, as well as tools to build career ladders and/or career lattices.

C. Federal Collaboration

DOL encourages other Federal partners to recommend or require, where appropriate, that organizations receiving Recovery Act funding list jobs created with their State public labor exchange. The Department is developing specific strategies to link job listings, training opportunities and placement among programs funded by Departments of Housing and Urban Development, Energy, and Education. Where the grantee is not the public workforce system, they are strongly encouraged to work with the local One Stop Career Centers to make these connections.

D. Links to Federal Recovery Sites

For specific information on a range of Federal agency Recovery Act activities and funding opportunities, please access the following Web sites:

- Department of Education: *http://www.ed.gov/policy/gen/leg/recovery/index.html.*
- Department of Energy: *http://www.doe.gov/recovery.*
- Department of Housing and Urban Development: *http://www.hud.gov/recovery.*
- Department of Transportation: *http://www.dot.gov/recovery/.*
- Environmental Protection Agency: *http://www.epa.gov/recovery.*

E. Promising Training Approaches

ETA encourages applicants to research promising training approaches in order to inform their proposals. The following list of Web sites provides a starting place for this research, but by no means should be considered a complete list:

- ETA's home site (*http://www.doleta.gov*) and the ETA Research Publication Database (*wdr.doleta.gov/research/keyword.cfm*)
- ETA's knowledge sharing site (*http://www.workforce3one.org*), including the ''workforce solutions'' section that contains over 6,000 additional resources applicants may find valuable in developing workforce strategies and solutions
- The National Governors Association Center for Best Practices (*http://www.nga.org*)
- The National Association of State Workforce Agencies (*http://www.workforceatm.org*)
- The National Association of Workforce Boards (*http://www.nawb.org*)

IX. 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 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 OMB Desk Officer for ETA, Department of Labor, in the Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the 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 SGA will be used by DOL 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.

Signed at Washington, DC, this 19th day of June, 2009.

B. Jai Johnson,

Grant Officer, Employment and Training Administration.

[FR Doc. E9–14920 Filed 6–23–09; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Committee on Strategy and Budget; Sunshine Act Meetings; Notice

The National Science Board's Committee on Strategy and Budget, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), 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 National Science Board business and other matters specified, as follows:

DATE AND TIME: Friday, June 26, 2009 at 2 p.m.

SUBJECT MATTER: Discussion of future NSF budgets.

STATUS: Closed.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for information or schedule updates, or contact: Jennie Moehlmann, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Ferrante,

Writer-Editor.

[FR Doc. E9–14962 Filed 6–22–09; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revision to July 8–10, 2009 ACRS Meeting Federal Register Notice

The **Federal Register** Notice for the ACRS meeting scheduled to be held on July 8–10, 2009, is being revised to make the following changes:

The discussion of Draft Final Regulatory Guide 1.215, ''Guidance for ITAAC Closure under 10 CFR Part 52,'' scheduled between 10:15 and 11:45 a.m. on Wednesday, July 8, 2009, is now scheduled between 10:45 a.m. and 12:15 p.m. on Thursday, July 9, 2009. The discussion of Draft Final Revision 3 to Regulatory Guide 1.100, ''Seismic Qualification of Electric and Mechanical Equipment for Nuclear Power Plants,'' scheduled between 10:45 a.m. and 12:15 p.m. on Thursday, July 9, 2009, is now scheduled between 10:15 and 11:45 a.m. on Wednesday, July 8, 2009.

In addition, the topic on Applicability of TRACE Code to Analyze ESBWR

Stability, scheduled between 12:45 and 2:45 p.m. on Wednesday, July 8, 2009, has been clarified to state ''Applicability of TRACE Code to Evaluate New LWR Designs.''

The notice of this meeting was previously published in the **Federal Register** on Wednesday, June 17, 2009 [74 FR 28727–28728]. All other items remain the same as previously published.

Further information regarding this meeting can be obtained by contacting Girija Shukla, Cognizant ACRS staff (301–415–6855), between 7:15 a.m. and 5 p.m., (ET).

Dated: *June 18, 2009.*

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E9–14833 Filed 6–23–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0257]

Notice of Public Workshop on a Potential Rulemaking for Safe Disposal of Unique Waste Streams Including Significant Quantities of Depleted Uranium

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public workshop and a request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) plans to conduct two public workshops to solicit public input on major issues associated with a potential rulemaking for land disposal of unique waste streams including, but not limited to, significant quantities of depleted uranium in near-surface radioactive waste disposal facilities. The public workshops are intended to solicit the views of representatives of interests that may be affected by the rulemaking. Members of the public are invited to provide written comments on the issues presented in this notice and to attend the workshops to provide feedback on the potential rulemaking. The public workshops will be held in Rockville, Maryland on September 2–3, 2009 and in Salt Lake City, Utah on September 23–24, 2009.

DATES: Members of the public may provide feedback at the transcribed public workshops or may submit written comments on the issues discussed in this notice. Comments on issues for the agenda should be postmarked no later than August 1, 2009. Comments on the issues and questions presented in this notice and discussed at the workshops should be postmarked no later than October 30, 2009. Comments received after these dates will be considered if it is practical to do so. NRC plans to consider these stakeholder views in the development of a technical basis for the planned rulemaking. Written comments may be sent to the address listed in the **ADDRESSES** section. Questions about participation in the roundtable discussion at the public workshops should be directed to the facilitator at the address listed in the **ADDRESSES** section. Members of the public planning to attend the workshops are invited to RSVP at least ten (10) days prior to each workshop. Replies should be directed to the points of contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

The public workshops will be held in Rockville, Maryland on September 2, 2009, from 8 a.m. to 5 p.m. and on September 3, 2009, from 8 a.m. to 5 p.m. and in Salt Lake City, Utah on September 23, 2009, from 8 a.m. to 5 p.m. and on September 24, 2009, from 8 a.m. to 5 p.m. The location of and final agenda for each public workshop will be noticed no fewer than ten (10) days prior to each workshop on the NRC's electronic public workshop schedule at *http://www.nrc.gov/public-involve/public-meetings/index.cfm.* Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the issues proposed for discussion at the public workshops.

ADDRESSES: Submit written comments to the Chief, Rulemaking and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop TWB 5B01M, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice, or by fax at 301- 492–3446. Comments may also be submitted electronicallly at *http://www.regulations.gov.* Search on docket ID NRC–2009–0257.

Questions regarding participation in the roundtable discussions should be submitted to the facilitator, Francis Cameron, by mail to Mail Stop O16–E15, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–1006 or 240–205–2091, or by e-mail at *francis.cameron@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Priya Yadav, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–6667; e-mail *priya.yadav@nrc.gov*, or Christopher Grossman, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–7658; e-mail *christopher.grossman@nrc.gov.*

The public may examine and have copied for a fee, publicly available documents at the Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents created or received at NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS, contact the Public Document Room at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99–240) sets forth the Federal policy, including responsibilities, for the disposal of low-level radioactive waste to ensure available disposal capacity for all classes of waste, as specified by Title 10, § 61.55, of the *Code of Federal Regulations* (CFR). Existing NRC regulations in 10 CFR 61.55 specify criteria for determining the classification of low-level radioactive waste for land disposal at a near-surface facility. The original development of 10 CFR 61.55 did not explicitly consider the impacts resulting from the disposal of significant quantities of depleted uranium from the operation of a commercial uranium enrichment facility (''Draft Environmental Impact Statement on 10 CFR Part 61 Licensing Requirements for Land Disposal of Radioactive Waste,'' NUREG–0782, 1981, ADAMS Accession Nos. ML060930564 (vol. 1), ML060930573 (vol. 2), ML060930577 (vol. 3), and ML060930583 (vol. 4); ''Final Environmental Impact Statement on 10 CFR Part 61 Licensing Requirements for Land Disposal of Radioactive Waste,'' NUREG–0945, 1982, ADAMS Accession Nos. ML052590184 (vol. 1) and ML052920727 (vol. 2)). When 10 CFR Part 61 was initially developed, there were no commercial facilities generating significant quantities of depleted uranium waste. As a result, the analysis only considered the types of uranium-bearing waste streams being typically

disposed by the NRC licensees at the time.

The NRC issued licenses for two commercial uranium enrichment facilities in 2006 and 2007, which are expected to generate significant quantities of depleted uranium. Depleted uranium is source material, as defined by Section 11(z) of the Atomic Energy Act of 1954, as amended, and if treated as a waste would fall under the definition of a low-level radioactive waste under 10 CFR 61.55(a). The NRC reaffirmed this waste classification in Memorandum and Order CLI–05–20 dated October 19, 2005 (ADAMS Accession No. ML052930035). Consistent with its policy to increase the use of risk-informed decision-making in all regulatory matters (''Staff Requirements—COMSECY–96–061—Risk-Informed, Performance-Based Regulation (DSI 12)'', April 15, 1997, ADAMS Accession No. ML003671740), the NRC considered in a screening analysis (''Response to Commission Order CLI–05–20 Regarding Depleted Uranium,'' SECY–08–0147, October 7, 2008, ADAMS Accession No. ML081820762) whether quantities of depleted uranium at issue in the waste stream from commercial uranium enrichment facilities warrant amending the waste classification tables in 10 CFR 61.55(a) or amending 10 CFR 61.55(a)(6). The NRC decided to pursue a limited rulemaking to specify a requirement for a site-specific analysis and associated technical requirements for unique waste streams including, but not limited to, the disposal of significant quantities of depleted uranium (''Staff Requirements—SECY–08–0147—Response to Commission Order CLI–05–20 Regarding Depleted Uranium,'' SRM–SECY–08–0147, March 18, 2009, ADAMS Accession No. ML090770988). In pursuing this limited rulemaking, the NRC is not proposing to alter the waste classification scheme. However, for unique waste streams including, but not limited to, significant quantities of depleted uranium, there may be a need to place additional criteria on its disposal at a specific facility or deny such disposal based on unique site characteristics. Those restrictions would be determined via a site-specific analysis that satisfies the requirements developed through this rulemaking process.

In advance of this planned rulemaking, NRC will conduct public workshops inviting representatives of the stakeholders affected by the rulemaking in a ''roundtable'' format. At these workshops, NRC plans to discuss with stakeholders the issues to be considered in the rulemaking and the technical parameters of concern for a site-specific analysis associated with the disposal of unique waste streams, including significant quantities of depleted uranium. NRC plans to consider these stakeholder views in the development of a technical basis for the planned rulemaking.

In order to have a manageable discussion, the number of participants around the table will, of necessity, be limited. The NRC, through the facilitator of the workshop, will attempt to ensure broad participation by the spectrum of interests affected by the rulemaking, including citizen and environmental groups, nuclear industry interests, state, tribal, and local governments, and experts from academia and other federal agencies. Other members of the public are welcome to attend. Those not seated at the tables, including individual members of the public, will have the opportunity to provide feedback on each of the issues slated for discussion by the roundtable participants. Questions about participation in the roundtable discussion may be directed to the facilitator.

Section II describes issues associated with disposal of unique waste streams in general, while Section III describes specific issues associated with technical parameters for a site-specific analysis for disposal of significant quantities of depleted uranium that were identified from the screening analysis (SECY–08–0147, October 7, 2008).

II. Issues With Disposal of Unique Waste Streams

This section discusses issues associated with a regulatory definition of unique waste streams that should be considered before commencing regulatory activities related to technical requirements for a site-specific analysis for land disposal of unique waste streams in the near-surface. Each issue is assigned a number, a short title, and a list of questions and factors for consideration. These issues, questions, and factors are not meant to be a complete or final list, but are intended to initiate discussion. Interested stakeholders are welcome to recommend additions, deletions, or modifications to the key issues for consideration. These issues and factors will focus the discussion at the public workshops. All public feedback will be used in developing options for NRC consideration.

Issue II–1. Definition of Unique Waste Streams

The NRC plans to propose a rulemaking in 10 CFR Part 61 to specify a requirement for a site-specific analysis for the disposal of unique waste streams including, but not limited to, significant quantities of depleted uranium. As part of this planned rulemaking, NRC will solicit stakeholder views on considerations for a regulatory definition for unique waste streams requiring a site-specific analysis.

Question II–1.1—Should the NRC propose a regulatory definition to (a) specify general criteria that would capture both current and foreseeable unique waste streams; or (b) limit the definition to a known set of current unique waste streams including significant quantities of depleted uranium? What characteristics should NRC propose as defining for unique waste streams?

Question II–1.2—What waste streams containing radionuclides listed in the waste classification tables at 10 CFR 61.55 are currently, or possibly in the foreseeable future, being disposed of in quantities significantly greater than initially considered in the development of 10 CFR Part 61?

Question II–1.3—What waste streams containing radionuclides that are not listed in the waste classification tables at 10 CFR 61.55 are currently, or possibly in the foreseeable future, being disposed of in concentrations or quantities significantly greater than initially considered in the development of 10 CFR Part 61?

Question II–1.4—What waste streams that were not considered in the initial development of 10 CFR Part 61 should be considered under the definition of ''unique waste streams''?

Question II–1.5—Should the NRC consider waste streams that result from spent fuel reprocessing and are not high-level or greater-than-class C waste in the definition of ''unique waste streams''?

Question II–1.6—Are there other characteristics besides concentration and quantity that NRC should consider when defining ''unique waste streams''?

Issue II–2. Time Period of Performance

While a period of 10,000 years was initially considered in NUREG–0782 (1981), 10 CFR Part 61 does not specify a period to evaluate performance of a near-surface low-level radioactive disposal facility, in part due to the effects of site and waste characteristics on the timing of projected radiological doses. NRC continues to consider 10,000 years a sufficient period, with some exceptions, to capture (i) the risk from the short-lived radionuclides, which comprise the bulk of the activity disposed; and (ii) the peak radiological doses from the more mobile long-lived radionuclides, which tend to bound the

potential radiological doses at time frames greater than 10,000 years (''A Performance Assessment Methodology for Low-Level Radioactive Waste Disposal Facilities'', NUREG–1573, 2000, ADAMS Accession No. ML003770778). Internationally, selection of a time frame for evaluation of facility performance has generally considered the hazard and longevity of the waste, the analysis framework (i.e., scenarios, receptors, and pathways), socioeconomic uncertainties, and uncertainty in extending models and data to times beyond those for which the underlying assumptions can be justified (''Safety Assessment for Near Surface Disposal of Radioactive Waste'', Safety Standards Series No. WS–G–1.1, International Atomic Energy Agency, 1999, available electronically at *http://www-pub.iaea.org/MTCD/publications/PDF/Pub1075_web.pdf*; ''The Handling of Timescales in Assessing Post-closure Safety—Lessons Learnt from the April 2002 Workshop in Paris, France'', Organization for Economic Co-operation and Development Nuclear Energy Agency, 2004, available electronically at *http://www.nea.fr/html/rwm/reports/2004/nea4435-timescales.pdf*). As part of a planned rulemaking, NRC is soliciting stakeholder views regarding a time period to evaluate the performance of near-surface disposal of unique waste streams.

Question II–2.1—Should the NRC (a) specify a single time period to evaluate the performance of facilities disposing of all unique waste streams in the near-surface; (b) specify criteria requiring the consideration of how the hazard for each unique waste stream evolves over time; or (c) permit a licensee to justify a period of performance?

Question II–2.2—If NRC were to specify a single time period for site-specific analysis of facilities disposing of unique waste streams in the near-surface, what would be an appropriate period? What factors should NRC consider in determining a single time period of performance?

Question II–2.3—If NRC were to specify criteria requiring the consideration of how the hazard evolves over time for each unique waste stream, what factors should NRC consider in determining these criteria?

Question II–2.4—If NRC were to permit a licensee to justify a time period of performance, what factors should NRC consider when evaluating a licensee's justification?

Question II–2.5—If NRC were to specify criteria requiring the consideration of how the hazard evolves over time, or permit a licensee to justify a time period of performance, should the NRC consider limiting the maximum extent of the time period considered? If so, what factors should NRC consider when specifying a maximum period of performance?

Question II–2.6—What other approaches might NRC consider when specifying criteria for a period of performance for facilities disposing of unique waste streams in the near-surface?

Issue II–3. Exposure Scenarios for a Site-Specific Analysis

Disposal of radioactive waste in near-surface disposal facilities has several performance objectives, specified at 10 CFR Part 61, including protection of the general population from releases of radioactivity and protection of individuals from inadvertent intrusion. In developing the waste classification scheme in 10 CFR Part 61, NRC performed an analysis (NUREG–0782, 1981; NUREG–0945, 1982) applying several assumptions with respect to exposure scenarios and potential receptors. Following the period of active institutional control, the member of the public was assumed to engage in residential, agricultural, or other activities at the boundary of the 100 meter (330 feet) buffer zone surrounding the disposal area that circumscribes the disposal units. These assumed activities were consistent with regional practices current at the time of the analysis. Additionally, the analysis assumed that an inadvertent intruder engaged in activities on the disposal site rather than outside the buffer zone following the period of active institutional control. The inadvertent intruder exposure scenario assumed the exposure via either disruption of waste during the excavation and construction of a residence on the disposal site (*i.e.,* intruder-construction) or occupation of a dwelling located on the disposal site and ingestion of food grown in contaminated soils (*i.e.,* intruder-agriculture) if the waste had degraded to an unrecognizable form. As part of a planned rulemaking NRC is considering whether to specify criteria or provide guidance for appropriate exposure scenarios for site-specific analyses associated with disposal of unique waste streams.

Question II–3.1—Should NRC specify technical criteria for, or permit licensees to justify, site-specific exposure scenarios for demonstrating compliance with the performance objective protecting members of the public for unique waste streams? What factors should NRC consider in specifying technical criteria or reviewing licensee justifications for exposure scenarios associated with members of the public?

Question II–3.2—Should NRC specify technical criteria for, or permit licensees to justify, site-specific exposure scenarios for demonstrating compliance with the performance objective protecting individuals from inadvertent intrusion for unique waste streams? What factors should NRC consider in specifying technical criteria, or reviewing licensee justifications, for inadvertent intruder exposure scenarios?

III. Issues With Disposal of Significant Quantities of Depleted Uranium

This section discusses major issues to be considered before commencing regulatory activities related to requirements for a site-specific analysis for near-surface land disposal of significant quantities of depleted uranium, a unique waste stream. Each issue is assigned a number, a short title, and a list of questions and factors for consideration. These issues, questions, and factors are not meant to be a complete or final list, but are intended to initiate discussion. Interested stakeholders are welcome to recommend additions, deletions, or modifications to the key issues for consideration and propose implementation considerations. These issues and factors will serve as the basis for discussion at the public workshops. All public feedback will be used in developing implementation options for NRC consideration.

Issue III–1. Definition of Significant Quantities

The NRC plans to propose a rulemaking in 10 CFR Part 61 to specify a requirement for a site-specific analysis for the disposal of significant quantities of depleted uranium (SRM–SECY–08–0147, March 18, 2009). As part of this rulemaking, the NRC intends to define ''significant quantities'' of depleted uranium in the regulation. Recently, the NRC performed an analysis that confirmed that small quantities of depleted uranium (approximately 1–10 metric tons) may be disposed of at shallow depths and meet the performance objectives specified in 10 CFR Part 61. This result is consistent with the conclusions of an earlier analysis that the types of uranium-bearing waste streams typically disposed of by NRC licensees in limited quantities do not present a significant hazard to warrant limitation on the concentration of this naturally occurring material (NUREG–0945, 1982). Because small quantities and lower concentrations of uranium were

previously evaluated and recently re-affirmed, the rulemaking will focus on ensuring additional disposal considerations are taken for depleted uranium based on the quantity and concentration of material at issue.

Question III–1.1—Should NRC specify a lower quantity limit in the definition of ''significant quantities'' for near-surface disposal? If so, what factors should NRC consider in setting an appropriate lower threshold for near-surface disposal?

Question III–1.2—Should NRC specify an upper quantity limit in the definition of ''significant quantities''? If so, what factors should NRC consider in setting an appropriate upper threshold for near-surface disposal?

Question III–1.3—Are there alternative methods NRC should consider when specifying criteria to define ''significant quantities''?

Issue III–2. Time Period of Performance for a Site-Specific Analysis

In addition to the issue described earlier in Section II for unique waste streams, generally, the following questions are provided to focus discussion on the disposal of significant quantities of depleted uranium.

Question III–2.1—If NRC were to specify a single time period for the site-specific analysis of near-surface disposal of unique waste streams (see Question II.2.1), what factors associated with disposal of significant quantities of depleted uranium should NRC consider in determining a single time period of performance for unique waste streams, including significant quantities of depleted uranium?

Question III–2.2—If NRC were to specify criteria requiring the consideration of hazards for each unique waste stream evolving over time (see Question II.2.1), what factors should NRC consider in determining these criteria for disposal of significant quantities of depleted uranium?

Question III–2.3—If NRC were to permit a licensee to justify a time period of performance (see Question II.2.1), what factors should NRC consider when evaluating a licensee's justification for disposal of significant quantities of depleted uranium?

Question III–2.4—If NRC were to specify criteria requiring the consideration of how the hazard evolves over time, or permit a licensee to justify a reasonable time period of performance (see Question II–2.1), should the NRC consider limiting the maximum extent of the time period considered for disposal of significant quantities of depleted uranium? If so, what factors should NRC consider when specifying a maximum period of performance?

Question III–2.5—What other approaches might NRC consider when specifying criteria for a period of performance for near-surface disposal of significant quantities of depleted uranium?

Issue III–3. Exposure Scenario(s) for a Site-Specific Analysis

In addition to the issue described earlier in Section II for unique waste streams, generally, the following questions are provided to focus discussion on the disposal of significant quantities of depleted uranium.

Question III–3.1—What factors specific to disposal of significant quantities of depleted uranium should NRC consider in specifying criteria or reviewing a licensee's justification for exposure scenarios for protection of members of the public?

Question III–3.2—What factors specific to disposal of significant quantities of depleted uranium should NRC consider in specifying criteria or reviewing a licensee's justification for exposure scenarios for the protection of individuals from inadvertent intrusion?

Issue III–4. Source Term Issues for a Site-Specific Analysis

Depleted uranium can have a variety of chemical and physical forms which are dependent on enrichment and deconversion processing. For instance, depleted uranium is commonly stored as a hexafluoride gas byproduct material. Depleted uranium hexafluoride gas may also be deconverted to an oxide form. Recently, the NRC performed a screening analysis (SECY–08–0147, October 7, 2008) that confirmed that small quantities of depleted uranium (approximately 1–10 metric tons) may be disposed of at shallow depths and meet the performance objectives specified in 10 CFR 61. This screening analysis assumed that depleted uranium would be disposed of in an oxide form following deconversion. NRC is seeking stakeholder views on modeling source terms in a site-specific analysis for near-surface disposal of significant quantities of depleted uranium.

Question III–4.1—Should NRC specify or permit licensees to propose physical or chemical forms (*e.g.,* UF_6, U_3O_8, metal) for disposal of significant quantities of depleted uranium? If so, what factors should NRC consider in specifying criteria for or developing guidance to review an analysis of physical or chemical forms?

Question III–4.2—Should NRC specify criteria for, or permit licensees to justify, stabilizing admixtures (*e.g.,* grout) for disposal of significant quantities of depleted uranium? If so, what factors should NRC consider in specifying criteria for, or developing guidance to review, an analysis of admixtures?

Question III–4.3—What other factors should NRC consider when specifying criteria, or developing technical guidance, regarding waste forms for disposal of significant quantities of depleted uranium in near-surface facilities?

Question III–4.4—Should NRC require a site-specific analysis to capture previously disposed quantities of depleted uranium? If so, what factors should NRC consider when specifying criteria, or developing technical guidance, regarding previously disposed quantities of depleted uranium?

Issue III–5. Modeling of Uranium Geochemistry in a Site-Specific Analysis

The NRC plans to propose a rulemaking in 10 CFR Part 61 to specify a requirement for a site-specific analysis for the disposal of significant quantities of depleted uranium. Recently, the NRC performed a screening analysis (SECY–08–0147, October 7, 2008) that confirmed that small quantities of depleted uranium (approximately 1–10 metric tons) may be disposed of at shallow depths and meet the performance objectives specified in 10 CFR Part 61. The results of this analysis noted the dependence of disposal facility performance on site-specific geochemical conditions. Geochemical conditions were represented in the screening analysis as epistemic uncertainty over a broad range of disposal sites and conditions. In reality, many of these parameters may be constrained at a particular disposal facility.

Question III–5.1—Should NRC specify regulatory criteria for, or permit licensees to justify, site-specific geochemical parameters for the analysis of disposal of significant quantities of depleted uranium?

Question III–5.2—If NRC should specify regulatory criteria, then what factors should NRC consider in developing criteria for geochemical parameters for a site-specific analysis for disposal of significant quantities of depleted uranium?

Question III–5.3—If NRC should permit licensees to justify site-specific geochemical parameters, then what factors should NRC consider when reviewing a licensee's justification?

Question III–5.4—What new or alternative approaches should NRC consider regarding the incorporation of

geochemical parameters in a site-specific analysis for disposal of significant quantities of depleted uranium?

Issue III–6. Modeling of Radon in the Environment in a Site-Specific Analysis

Over time, the uranium isotopes comprising depleted uranium decay to multiple progeny radionuclides. Many of these progeny radionuclides are different elements, and differ from depleted uranium in their radiotoxicity and mobility in the environment. Among the progeny radionuclides exhibiting these differing characteristics, radon-222 is of particular interest because it exists as a gas under typical environmental conditions and presents a unique challenge to evaluate in a site-specific analysis of the performance of a near-surface, low-level radioactive waste disposal facility. Analyzing the mobility of radon-222 in the environment involves demonstrating a reasonable understanding of the emanation of the radon gas from the depleted uranium solids, and migration to the surface of the disposal facility. Additionally, NRC anticipates that radon migration may require policy considerations of societal uncertainties in developing appropriate exposure scenarios.

Question III–6.1—What new approaches for modeling radon emanation, migration, and exposure pathways, including the effects of differences in the physical and chemical properties between radon and its progeny, should NRC consider?

Question III–6.2—Should NRC require licensees to evaluate the effects of radon in a site-specific analysis for disposal of significant quantities of depleted uranium in near-surface facilities?

Question III–6.3—Should NRC specify by regulation, or develop guidance on, the technical parameters for evaluating radon emanation, migration, and exposure in a site-specific analysis of significant quantities of depleted uranium?

Question III–6.4—If NRC should specify by regulation the technical parameters for evaluating radon emanation, migration, and exposure, what factors should NRC consider in specifying technical parameters for a site-specific analysis for significant quantities of depleted uranium?

Question III–6.5—If NRC should develop guidance on the technical parameters for evaluating radon emanation, migration, and exposures to accompany regulatory criteria, then what factors should NRC consider in the development of guidance for evaluating technical parameters for a site-specific analysis for disposal of significant quantities of depleted uranium?

Question III–6.6—What societal uncertainties should NRC consider when developing guidance for scenarios of exposure to radon gas released from the disposal of significant quantities of depleted uranium?

Question III–6.7—What alternative methods should NRC consider when developing guidance on evaluating the impacts of radon gas exposures? For instance, U.S. Environmental Protection Agency standards at 40 CFR Part 192 for the control of residual radioactive materials from inactive uranium mill tailings sites specify that releases of radon-222 to the atmosphere will not exceed an average release rate of 20 picoCuries per square meter per second or increase the annual average concentration of radon–222 in air at or above any location outside the disposal site by more than 0.5 picoCuries per liter.

Dated at Rockville, Maryland this 16th day of June, 2009.

For the Nuclear Regulatory Commission.

Patrice M. Bubar,

Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management, and Environmental Protection Office of Federal and State Materials, and Environmental Management Programs.

[FR Doc. E9–14820 Filed 6–23–09; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2009–37; Order No. 222]

Priority Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add an additional Priority Mail contract to the Competitive Product List. This notice addresses procedural steps associated with this filing.

DATES: Comments are due June 26, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 11, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, announcing that it has entered into an additional contract (Priority Mail Contract 11), which it contends fits within the previously proposed Priority Mail Contract Group product.[1] In support, the Postal Service filed the proposed contract and referenced Governors' Decision 09–6 filed in Docket No. MC2009–25. *Id.* at 1.

The Notice states that the ''contract differs from the contract filed as Priority Mail Contract 6 only in regards to negotiated prices and a difference in termination provisions.'' *Id.* at 2. In addition, it states that the contract is scheduled to become effective the day that the Commission issues all necessary regulatory approval. *Id.* at 1.

The instant contract. The Postal Service filed the instant contract pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. It submitted the contract and supporting material under seal and attached a redacted copy of the contract and certified statement required by 39 CFR 3015.5(c)(2) to the Notice. *Id.,* Attachments A and B respectively.

The Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2.

II. Notice of Filing

The Commission establishes Docket No. CP2009–37 for consideration of the matters related to the contract identified in the Postal Service's Notice.

The Notice does not expressly use the term functionally equivalent to describe proposed Priority Mail Contract 11. Instead, it appears to implicitly make that claim by distinguishing the instant contract from Priority Mail Contract 6, filed in Docket No. CP2009–30 as part of the proposed Priority Mail Contract Group. *Id.* at 2. As the Postal Service recognizes, the scope of the Priority Mail Contract Group product is currently pending before the Commission. To that end, it acknowledges that the Commission's decision in Docket No. MC2009–25 may have an impact on the sufficiency of the Postal Service's filings in this case. *Id.* at 1, n.1. Depending on the outcome of Docket No. MC2009–25, the Postal Service may need to file additional support as required in 39 CFR 3020 subpart B. Such filings, if any, shall be due within three days of the Commission's order in Docket No.

[1] Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 11), June 11, 2009 (Notice).

MC2009–25 addressing the scope of the proposed Priority Mail Contract Group product.

Interested persons may submit comments on whether the instant contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR part 3020, subpart B, and whether it should be classified within the Priority Mail Contract Group or as a separate product. Comments in this case are due no later than June 26, 2009.

The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in this docket.

III. Supplemental Information

Pursuant to 39 CFR 3015.6, the Commission requests the Postal Service to provide the following supplemental information by June 23, 2009:

1. (a) Please explain the cost adjustments made to each contract;

(b) Explain the mailer activities or characteristics that:

(i) yield cost savings to the Postal Service,

(ii) impose additional costs on the Postal Service;

(c) Please address every instance where an NSA partner's cost differs from the average cost.

2. (a) Please provide a timeframe of when NSA partner volumes and cubic feet measurements were collected for each contract.

(b) Please provide a unit of analysis for volumes in each contract, *e.g.,* whole numbers, thousands, etc.

3. In the Excel files accompanying the instant contract, unit transportation costs are hard coded (*See* tab: ''Partner Unit Cost'' rows 18 and 19). Please provide up-to-date sources and show all calculations.

IV. Ordering Paragraphs

It is Ordered:

1. The Commission establishes Docket No. CP2009–37 for consideration of the issues raised in this docket.

2. As discussed in this Order, the Postal Service shall file supplemental information, if necessary, within three days of the Commission's order in Docket No. MC2009–25 addressing the scope of the proposed Priority Mail Contract Group product.

3. Comments by interested persons in these proceedings are due no later than June 26, 2009.

4. The Postal Service is to provide the information requested in section III of this Order no later than June 23, 2009.

Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

5. The Secretary shall arrange for publication of this Order in the **Federal Register.**

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E9–14777 Filed 6–23–09; 8:45 am]

BILLING CODE 7710–FW–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0625]

Founders Equity SBIC I, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Founders Equity SBIC I, L.P., 711 Fifth Avenue, 5th Floor, New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Founders Equity SBIC I, L.P. proposes to provide equity security financing to Richardson Foods, Inc., 101 Erie Blvd., Canajoharie, NY 13317. The financing will provide the company with additional capital to fund an acquisition and to meet working capital requirements, and for debt repayment.

The financing is brought within the purview of § 107.730(a) of the Regulations because Founders Equity NY, L.P., an Associate of Founders Equity SBIC I, L.P., owns more than ten percent of Richardson Foods, Inc. and therefore Richardson Foods, Inc. is considered an Associate of Founders Equity SBIC I, L.P. as defined in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: June 9, 2009.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. E9–14813 Filed 6–23–09; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Delegation of Authority

AGENCY: U.S. Small Business Administration.

ACTION: Notice of delegation of authority.

SUMMARY: This document provides the public notice of the delegation of authority for certain investment activities by the Administrator of the Small Business Administration (SBA) to the Chief of Staff and the Agency Licensing Committee.

FOR FURTHER INFORMATION CONTACT: Harry Haskins, Acting Associate Administrator for Investment, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; (202) 205–6694 or *sbic@sba.gov.*

SUPPLEMENTARY INFORMATION: This document provides the public notice of the Administrator's delegation of authority to the Agency Licensing Committee to review and recommend to the Administrator for approval applications for licenses to operate as a small business investment company under the Small Business Investment Act of 1958, as amended.

This delegation of authority reads as follows:

Pursuant to the authority vested in me pursuant to section 301 of the Small Business Investment Act of 1958, as amended, the authority to take any and all actions necessary to review applications for licensing under section 301 of the Small Business Investment Act of 1958, as amended, and to recommend to the Administrator which such applications should be approved is delegated to the Agency Licensing Committee.

The Agency Licensing Committee shall be composed of the following members:

Associate Administrator for Capital Access, Chair, Associate Administrator for Investment, General Counsel, Deputy General Counsel, Chief Financial Officer.

This authority revokes all other authorities granted by the Administrator to recommend and approve applications for a license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended. This authority may not be re-delegated; however, in the event that the person serving in one of the positions listed as a member of the Agency Licensing Committee is absent from the office, as defined in SBA Standard Operating Procedure 00 01 2, Chapter 3, paragraph 2, or is unable to perform the functions and duties of his

or her position, the individual serving in an acting capacity, pursuant to a written and established line of succession, shall serve on the Committee during such absence or inability. In addition, if one of the positions listed as a member of the Agency Licensing Committee is vacant, the individual serving in that position in an acting capacity shall serve on the Agency Licensing Committee. This authority will remain in effect until revoked in writing by the Administrator or by operation of law.

Dated: June 15, 2009.

Karen G. Mills,

Administrator.

[FR Doc. E9–14761 Filed 6–23–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs. The meeting will be open to the public.

DATES: Tuesday, July, 14, 2009, from 9 a.m. to 5 p.m. and Wednesday, July 15, 2009, from 9 a.m. to 5 p.m., Eastern Standard Time.

ADDRESSES: U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The Advisory Committee on Veterans Business Affairs serves as an independent source of advice and policy recommendation to the Administrator of the U.S. Small Business Administration.

The meeting is scheduled as a full committee meeting. The agenda will include: Presentations and discussions regarding Small Business Administration and other public lending programs for veterans and Reserve component members of the U.S. Military who are small business owners or who aspire to small business ownership. The purpose is to study, research, and make recommendations regarding Veterans Business Development to the SBA Administrator, the SBA Associate Administrator for Veterans Business Development, the Congress, and the President of the United States.

FOR FURTHER INFORMATION CONTACT: Anyone wishing to attend and/or make a presentation to the Advisory Committee on Veterans Business Affairs and will need accommodations because of a disability or require additional information, you must contact Cheryl Simms, Program Liaison, by July 10, 2009, by fax or e-mail, in order to be placed on the agenda. Cheryl Simms, Program Liaison, U.S. Small Business Administration, Office of Veterans Business Development, 409 3rd Street, SW., Washington, DC 20416, Telephone number: (202) 619–1697, Fax number: 202–481–6085, e-mail address: *cheryl.simms@sba.gov.*

For more information, please visit our Web site at *http://www.sba.gov/vets.*

Dated: June 9, 2009.

Meaghan K. Burdick,

SBA Committee Management Officer.

[FR Doc. E9–14771 Filed 6–23–09; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0625]

Founders Equity SBIC I, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Founders Equity SBIC I, L.P., 711 Fifth Avenue, 5th Floor, New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Founders Equity SBIC I, L.P. proposes to provide equity security financing to Advantedge Healthcare Holdings, Inc., 30 Technology Drive, Warren, NJ 07059. The financing will provide the company with additional capital to fund its acquisition program and working capital requirements.

The financing is brought within the purview of § 107.730(a) of the Regulations because Founders Equity NY, L.P., an Associate of Founders Equity SBIC I, L.P., owns more than ten percent of Advantedge Healthcare Holdings, Inc., and therefore Advantedge Healthcare Holdings, Inc. is considered an Associate of Founders Equity SBIC I, L.P. as defined in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

June 4, 2009.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. E9–14818 Filed 6–23–09; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0625]

Founders Equity SBIC I, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Founders Equity SBIC I, L.P., 711 Fifth Avenue, 5th Floor, New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Founders Equity SBIC I, L.P. proposes to provide equity security financing to CORE Business Technology Solutions, 201 West 103rd Street, Indianapolis, IN 46290. The financing will provide the company with additional capital to fund its acquisition program and working capital requirements.

The financing is brought within the purview of § 107.730(a) of the Regulations because Founders Equity NY, L.P., an Associate of Founders Equity SBIC I, L.P., owns more than ten percent of CORE Business Technology Solutions and therefore CORE Business Technology Solutions is considered an Associate of Founders Equity SBIC I, L.P. as defined in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: June 9, 2009.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. E9–14806 Filed 6–23–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Periodic Review of Approved Class Waivers from the Nonmanufacturer Rule for Products in Effect as of March 17, 2009.

SUMMARY: The U. S. Small Business Administration (SBA) conducted a periodic review of approved class waivers from the Nonmanufacturer Rule for products in effect as of March 17, 2009. The purpose of the notice was to determine if there were any small business manufacturers or processors for the products listed on the list of approved class waivers. The basis for a waiver is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses or participants in SBA's 8(a) Business Development (BD) Program.

DATES: This waiver is effective June 30, 2009.

FOR FURTHER INFORMATION CONTACT: Edith G. Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *Edith.Butler@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or Participants in SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. SBA's regulations provided the same for procurements set aside for service-disabled veteran-owned small business concerns 13 CFR 125.15. This requirement is commonly referred to as the Nonmanufacturer Rule. See 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 1202(c). The SBA defines ''class of products'' based on the Office of Management and Budget's North American Industry Classification System (NAICS), and product service codes.

The following are products listed on SBA's list of Approved Class Waivers in Effect as of March 17, 2009.

U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF GOVERNMENT CONTRACTING NONMANUFACTURER RULE

[Class Waiver in Effect as of March 17, 2009]

Product service code	Date in **Federal Register**	NAICS	Product
210	3/21/2008	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing (Indoor and Outdoor Electrical Lighting Fixtures).
1395	7/2/2002	332995	AMMUNITION/OTHER ORDNANCES.
2310	7/15/1998	336111	AUTOMOBILE MOTOR VEHICLES, MOTOR TRUCKS.
2320	1/24/1992	333924	TRUCKS, FOUR WHEEL DRIVE UTILITY.
2330	12/5/2008	333924	Trailers and Heavy Truck Tractors.
2420	2/24/1992	333111	TRACTOR, WHEELED.
2620	5/18/1992	326211	TIRE, AIRCRAFT, PNEUMATIC.
2835	7/15/1998	333611	TURBINES.
3110	4/16/2001	332991	AEROSPACE BALL AND ROLLER BEARINGS, CONSISTING OF, BUT NOT LIMITED TO, ANNULAR BALL BEARINGS, CYLINDRICAL BALL BEARINGS, LINEAR BALL BEARINGS, LINEAR ROLLER BEARINGS, NEEDLE ROLLER BEARINGS, BALL OR ROLLER BEARING RACES, ROLLER BEARINGS, TAPERED ROLLER BEARINGS AND THRUST ROLLER BEARINGS.
3130	9/27/2002	332991	BEARINGS, MOUNTED.
3610	7/27/1994	333315	COPIER/DUPLICATING MACHINES.
3805	12/28/1989	333120	CONSTRUCTION, BACKHOE.
3805	5/15/1991	333120/333131	SHOVEL LOADERS, SCRAPER LOADERS.
3805	12/28/1991	333120	CONSTRUCTION, ROAD GRADER.
3805	12/28/1989	333120	CONSTRUCTION, SCRAPERS.
3805	5/15/1991	333131	CONSTRUCTION, DRILL RIGS.
3810	10/2/1991	333120	CONSTRUCTION, CRANE OVER 15 TON.
3825	9/13/1990	333120	SWEEPERS, STREET.
4710	5/15/1991	331491	PIPE & TUBING HIGH NICKEL ALLOY.
5805	7/5/1991	334210	COMMUNICATION, DIGITAL EPBX EQUIP.
5805	2/12/1997	334210	ROUTERS AND SWITCHES.
5805	7/20/1998	334210	TELEGRAPH APPARATUS.
5805	7/20/1998	334220	CELLULAR HANDSETS AND TELEPHONES.
5805	7/20/1998	334220	RADIO TELEPHONE.
5820	7/8/2008	334220	TELEVISIONS.
5821	2/12/1997	334511	AIRBORNE INTEGRATED COMPONENTS.
5836	2/8/1993	334310	VIDEO CASSETTE RECORDER.
5836	1/28/1997	333315	8 MM TRI-DECK AIRBORNE RECORDER.
5920	5/5/1997	335931	SURGE ARRESTERS.
5925	5/5/1997	335313	POWER CIRCUIT BREAKERS.
5950	5/5/1997	335311	CURRENT AND POTENTIAL TRANSFORMER AUTOTRANS—FORMER.

U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF GOVERNMENT CONTRACTING NONMANUFACTURER RULE—Continued

[Class Waiver in Effect as of March 17, 2009]

Product service code	Date in **Federal Register**	NAICS	Product
5805	7/20/1998	334416	TOWERS.
5999	11/2/2004	335999	MISCELLANEOUS ELECTRICAL EQUIPMENT AND COMPONENTS MANUFACTURING.
6015	6/13/2003	334417/335921	OVERHEAD FIBER OPTIC GROUNDWIRE & ANCILLARY HARDWARE COMPONENTS .
6135	2/24/1992	335911	STORAGE BATTERIES .
6145	12/5/2008	335931	Control Cable and Conductors.
6145	12/5/2008	335932	Line Hardware (insulator Strings).
6525	12/20/2007	334510	Electromedical and Electrotherapeutic Apparatus Manufacturing.
6525	12/26/2007	334517	Irradiation Apparatus Manufacturing.
6525	12/20/2007	334510	Electromedical/Electrotherapeutic Apparatus Manufacturing (Diagnostic equipment, MRI (magnetic resonance imaging), manufacturing; Magnetic resonance imaging (MRI) medical diagnostic equipment manufacturing; Medical ultrasound equipment manufacturing; MRI (magnetic resonance imaging) medical diagnostic equipment manufacturing; Patient monitoring equipment (e.g., intensive care coronary care unit) manufacturing; PET (positron emission equipment tomography) scanners manufacturing; and Positron emission tomography (PET) scanners manufacturing).
6525	12/26/2007	334517	Irradiation Apparatus Manufacturing (X-Ray Equipment/Supplies).
6525	01/29/2008	334517	Irradiation Apparatus Manufacturing (Computerized axial tomography (CT/CAT) scanners manufacturing; CT/CAT (computerized axial tomography) scanners manufacturing; Fluoroscopes manufacturing; Fluoroscopic X-ray apparatus and tubes manufacturing; Generators, X-ray, manufacturing; Irradiation equipment manufacturing; X-ray generators manufacturing; and X-ray irradiation equipment manufacturing).
6240	01/28/2008	335999	All Other Miscellaneous Electrical Equipment/Component Manufacturing (Fluorescent Lamps, Incandescent Lamps, etc.).
6250	01/28/2008	335999	All Other Miscellaneous Electrical Equipment/Component Manufacturing (Electric Lamp Starters/Lamp Holders, etc.).
6770	11/15/2005	325992	Photo-film, paper, plate & Chem. Manufacturing.
6810	04/27/2006	324110	REFINERY GASES MADE IN PETROLEUM REFINERIES.
6810	04/27/2006	332420	CRYOGENIC TANK, HEAVY GAUGE METAL, MANUFACTURING.
6810	04/27/2006	332420	LIQUID OXYGEN TANKS MANUFACTURING.
6810	04/27/2006	332420	LIQUEFIED PETROLEUM GAS (LPG) CYLINDERS MANUFACTURING.
6810	04/27/2006	332420	BULK STORAGE TANKS, HEAVY GAUGE METAL, MANUFACTURING.
6810	04/27/2006	332420	GAS STORAGE TANKS, HEAVY GAUGE METAL MANUFACTURING.
6810	04/27/2006	332420	CYLINDERS, PRESSURE, HEAVY GAUGE METAL, MANUFACTURING.
6810	04/27/2006	325120	INDUSTRIAL GASES MANUFACTURING.
6810	5/15/1991	325181	CAUSTIC SODA.
6810	5/15/1991	325181	SODA ASH.
6810	2/24/1992	325181	SODIUM HYDROXIDE.
6810	2/24/1992	325188	ACID, BORIC.
6810	4/24/1992	325188	ACID, ENRICHED BORIC.
6810	5/15/1991	325188	ACID, HYDROCHLORIC.
6810	2/24/1992	325188	ACID, HYDROFLUORIC.
6810	2/24/1992	325188	CALCIUM NITRATE (UNCOATED).
6810	5/15/1991	325110	HEPTANE HPCL.
6810	2/24/1992	325188	N-DODECANE.
6810	5/15/1991	325199	ETHYL ACETATE.
6810	5/15/1991	325110	BENZENE.
6810	5/15/1991	325110	TOLUENE.
6810	5/15/1991	325191/325199	ACETATE NATURAL SYNTHETIC.
6810	5/15/1991	325311	AMMONIUM SULFATE.
6810	5/15/1991	325199	METHYL ISOBUTYL KETONE.
6810	5/15/1991	325191/325199	ACETONE.
6810	2/24/1992	325199	METHYLENE CHLORIDE.
6810	5/15/1991	325199	NN-DIMETHYL FORMAMIDE.
6810	5/15/1991	325199	PROPYLENE GLYCOL.
6810	5/15/1991	325199	METHANOL.
6810	5/15/1991	325311	NITRIC ACID.
6810	10/21/1996	325199	PURIFIED TEREPHATHALIC ACID GROUND.
6810	5/15/1991	325199	PTAU.
6810	5/15/1991	325199	TRICHLORETHANE.
6810	5/15/1991	325311	AMMONIUM SULFATE.
6810	2/24/1992	324110	HYDROCARBON DILUENT.
7021	8/28/1991	334111	MAINFRAME COMPUTERS AND PERIPHERALS.*
7025	8/8/1991	334119	COMPUTER LASER PRINTER.
7110	6/27/2006	337215	Furniture Frames and Parts, Metal Manufacturing.
7110	6/27/2006	337215	Furniture, Frames, Wood, Manufacturing.
7110	6/27/2006	337215	Furniture Parts, Finished Metal Manufacturing.
7110	6/27/2006	337215	Furniture Parts, Finished Plastics, Manufacturing.

U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF GOVERNMENT CONTRACTING NONMANUFACTURER RULE—Continued

[Class Waiver in Effect as of March 17, 2009]

Product service code	Date in **Federal Register**	NAICS	Product
7110	6/27/2006	337127	Furniture, Factory-type (e.g., cabinets, stools, tool stands, work benches) Manufacturing.
7195	6/27/2006	339111	Furniture, hospital (e.g., hospital beds, operating room furniture), Manufacturing.
7195	6/27/2006	339111	Furniture, Laboratory-type (e.g., benches, cabinets, stools, tables) Manufacturing.
7220	1/15/1991	314110	CARPET TILE.
7220	5/15/1991	314110	CARPET, WOVEN, 6-FT VINYL BACK BROADLOOM.
7220	1/15/1991	314110	CARPET, 6 FT VINYL BACK BROADLOOM.
7220	5/15/1991	326192	TILE AND ROLL, VINYL SURFACE.
7290	11/15/2005	333415	COMMERCIAL REFRIGERATOR EQUIPMENT.
7320	11/15/2005	335221	HOUSEHOLD REFRIGERATOR EQUIPMENT.
7290	10/21/2005	333312	COMMERCIAL LAUNDRY EQUIPMENT.
7320	10/21/2005	335522	HOUSEHOLD REFRIGERATOR EQUIPMENT.
7320	10/21/2005	335221	HOUSEHOLD COOKING EQUIPMENT.
7510	1/12/2006	335222, 339940, 325992, 322231, 339940	OFFICE SUPPLIES, PAPER & TONER.
7610	8/3/1990	323117	THESAURUSES & DICTIONARIES.
7730	7/27/1994	334310	DISC PLAYERS, COMPACT.
7730	7/27/1994	334310	TELEVISION RECEIVING SETS.
8040	02/09/2005	325520	ADHESIVES AND SEALANTS MANUFACTURING.
8905	10/2/1991	311711	TUNA, CANNED.
8915	9/23/1991	311421	APRICOTS, CANNED.
8915	10/2/1991	311421	CITRUS SECTIONS, CANNED.
8915	10/2/1991	311421	SPINACH, CANNED.
8915	9/23/1991	311421	TOMATO PASTE, CANNED.
8925	10/2/1991	311312	SUGAR, GRANULATED & BROWN.
9310	10/2/1991	322224	PAPER BAGS (SMALL HARDWARE TYPE).
9510	5/15/1991	331491	BARS & ROD, HIGH NICKEL ALLOY.
9515	5/15/1991	331491	PLATE, SHEET, STRIP & FOIL; STAINLESS STEEL & HIGH NICKEL ALLOY.
9515	9/25/1990	331315	PLATE, SHEET, STRIP, FOIL & WIRE; HIGH NICKEL ALLOY.
9520	5/15/1991	331111	STAINLESS STEEL SHAPES.
9525	5/15/1991	331491	WIRE, NONELECTRICAL HIGH NICKEL ALL0Y.
9530	5/15/1991	331491	BARS & RODS, HIGH NICKEL ALLOY.
9530	8/23/1991	331491	ALUMINUM.
9530	8/23/1991	331312	NICKEL-COPPER NICKEL.
9535	6/8/2004	331315	ALUMINUM, SHEET, PLATE AND FOIL MANUFACTURING.
9650	9/25/1990	331411	COPPER & NICKEL CATHODES.
9650	9/25/1990	331411	COPPER CATHODES.
9650	9/25/1990	331419	NICKEL BRICKETTES.
9999	8/11/2004	333415	ICE MAKING MACHINERY MANUFACTURING.

* This waiver covers only peripheral equipment when purchasing a mainfame computer (PSC 7021).

The SBA posted a notice in the **Federal Register** on March 26, 2009 and April 22, 2009 in the Federal Business Opportunities. SBA received five (5) responses from small business concerns. A review of the responses determined that there were no small business manufacturing sources for any of the products on the approved class waivers in effect as of March 17, 2009. Therefore, the list of approved class waivers for these products will remain in effect until such time of the discovery of small business manufacturing sources.

Dated: June 19, 2009.

James Gambardella,

Acting Director for Government Contracting.

[FR Doc. E9–14889 Filed 6–23–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60122; File No. SR–NYSEAmex–2009–26]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change to Charge a $500 Monthly Fee to Recipients of the NYSE Amex Order Imbalance Information Datafeed

June 17, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2008, the NYSE Amex LLC (''NYSE Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE Amex LLC (''NYSE Amex'' or the ''Exchange''), formerly the American Stock Exchange LLC, proposes to charge a $500 monthly fee to recipients of the NYSE Amex Order Imbalance Information datafeed. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex LLC (''NYSE Amex'' or the ''Exchange''), formerly the American Stock Exchange LLC, proposes to charge a $500 monthly fee to recipients of the NYSE Amex Order Imbalance Information datafeed.

On April 9, 2009, NYSE Amex formally established its NYSE Amex Order Imbalance Information datafeed service (the ''Implementation Filing'').[3] Subsequent to the Implementation Filing, NYSE Amex amended NYSE Amex Equity Rules 15 and 123C to modify the reference price at which the Exchange reports NYSE Amex Order Imbalance Information and to clarify what is included or excluded from the NYSE Amex Order Imbalance Information reports (the ''Reference Price Filing'').[4]

As more fully described in the Implementation Filing and the Reference Price Filing, NYSE Amex Order Imbalance Information provides real-time order imbalances that accumulate prior to the opening of trading on the Exchange and prior to the close of trading on the Exchange. The Exchange provides this information for issues that are likely to be of particular trading interest at the opening or closing.

Currently, the Exchange provides this datafeed at no cost. The instant filing is submitted to establish a $500 monthly fee for receipt of the NYSE Amex Order Imbalance Information datafeed. This proposed $500 monthly fee to recipients of the NYSE Amex Order Imbalance Information datafeed applies whether the recipient receives the datafeed directly from the Exchange or indirectly from an intermediary. The fee entitles the datafeed recipient to make displays of that information available to an unlimited number of subscribers for no extra charge. The Exchange is not proposing to impose an end-user or display service fee on those subscribers.

The $500 monthly fee would allow vendors to redistribute NYSE Amex Order Imbalance Information: (1) Without having to differentiate between professional subscribers and nonprofessional subscribers; (2) without having to account for the extent of access to data; (3) without having to procure contracts with its subscribers for the benefit of the Exchange; and (4) without having to report the number of its subscribers.

The Exchange submits that the fee enables the investment community that has an interest in the receipt of order imbalance information to contribute to the Exchange's operating costs in a manner that is appropriate for this market data product.

In setting the level of the NYSE Amex Order Imbalance Information Product fee, the Exchange took into consideration several factors, including:

(1) The fees that other Exchanges are charging for similar services[5];

(2) Consultation with some of the entities that the Exchange anticipates will be the most likely to take advantage of the proposed service;

(3) The contribution of market data revenues that the Exchange believes is appropriate for entities that provide market data to large numbers of investors, which are the entities most likely to take advantage of the proposed service; and

(4) The contribution that revenues accruing from the proposed fee will make to meet the overall costs of the Exchange's operations.

In short, the Exchange believes that the proposed NYSE Order Imbalance Information fee would reflect an equitable allocation of its overall costs to users of its facilities.

The Exchange believes that the level of the fee is consistent with the approach set forth in the approval order issued by the Commission related to ArcaBook fees.[6] In the ArcaBook Approval Order, the Commission stated that ''when possible, reliance on competitive forces is the most appropriate and effective means to assess whether the terms for the distribution of non-core data are equitable, fair and reasonable, and not unreasonably discriminatory.''[7] It noted that if significant competitive forces apply to a proposal, the Commission will approve it unless a substantial countervailing basis exists.

The Exchange submits that the NYSE Amex Order Imbalance Information datafeed constitutes ''non-core data''; *i.e.,* the Exchange does not require a central processor to consolidate and distribute the product to the public pursuant to joint-SRO plans. Rather, the Exchange distributes this product voluntarily. Furthermore, both types of the competitive forces that the Commission described in the ArcaBook Approval Order are present: the Exchange has a compelling need to attract order flow and the product competes with a number of alternative products.

The Exchange must compete vigorously for order flow to maintain its share of trading volume. This requires the Exchange to act reasonably in setting market data fees for non-core products such as the NYSE Amex Order Imbalance Information datafeed. The Exchange hopes that NYSE Amex Order Imbalance datafeed will enable vendors to distribute NYSE Amex order imbalance information widely among investors, and thereby provide a means for promoting the Exchange's visibility in the marketplace.

2. Statutory Basis

The bases under the Securities Exchange Act of 1934 (the ''1934 Act'') for the proposed rule change are the requirement under Section 6(b)(4)[8] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities and the requirements under Section 6(b)(5)[9] that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in

[3] *See* Securities Exchange Act Release No. 59743 (April 9, 2009), 74 FR 17699 (April 16, 2009) (SR–NYSEAmex–2009–11).

[4] *See* Securities Exchange Act Release No. 59816 (April 23, 2009), 74 FR 19614 (April 29, 2009) (SR–NYSEAmex–2009–13).

[5] New York Stock Exchange LLC imposes an access fee of $500 per month for its order imbalance datafeed. Nasdaq OMX includes order imbalance information in its Nasdaq TotalView datafeed. Nasdaq OMX imposes end-user charges on both professional and nonprofessional subscribers that receive TotalView, as well as an array of monthly distribution charges that are significantly higher than the charge that NYSE Amex is proposing in this proposed rule change.

[6] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21) (the ''ArcaBook Approval Order'').

[7] *Id.* at 74771.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEAmex–2009–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–26. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–26 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14796 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60126; File No. SR–CBOE–2008–55]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1, Relating to Margin Requirements

June 17, 2009.

I. Introduction

On June 2, 2008, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to modify its margin requirements to facilitate, under certain circumstances, the ability of account holders to use vested and currently exercisable compensatory employee stock options (''Vested Employee Options'') issued by publicly traded companies as collateral for writing call options that have the same underlying security as the Vested Employee Options. On May 3, 2009, CBOE filed Amendment No. 1. The proposed rule change was published for comment in the **Federal Register** on May 13, 2009.[3] The Commission received one comment letter on the proposed rule change.[4]

II. Description

The Exchange proposes to amend its margin requirements to facilitate, under certain circumstances, the ability of account holders to use Vested Employee Options issued by publicly traded companies (''Issuers'') as collateral for writing call options that have the same underlying security as the Vested Employee Options. Specifically, the proposal would allow account holders to sell, as a hedge, listed equity call options on the same underlying security as the account holder's Vested Employee Options without the requirement of margin (the ''Transactions''). The proposal would permit account holders to engage in the Transactions using their Vested Employee Options as collateral. Currently, such Transactions would be deemed ''naked'' for purposes of margin rules and subject to a deposit of cash margin, effectively making the strategies cost prohibitive and impractical. The Exchange believes that enabling employees who hold Vested Employee Options to generate income and liquidity on their otherwise illiquid asset through the listed options markets will benefit investors by providing greater transparency and liquidity.

Under Section 220.12(f)(1) of Regulation T,[5] the Exchange, as a registered national securities exchange, is permitted to recognize the type of transactions described below as eligible for margin treatment subject to the approval of the Commission.

The proposal would permit account holders to sell listed call options on the same security that underlies their Vested Employee Options without the requirement of margin. Given the uncertificated nature of employee stock options, in order to secure the account

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59876 (May 6, 2009), 74 FR 22613 (May 13, 2009) (''Notice'').

[4] *See* letter from Kandy Rathinasamy, dated May 15, 2009 (''Rathinasamy Letter'').

[5] Section 220.12(f)(1) of Regulation T (12 CFR 220), *Supplement: Margin Requirements,* grants authority to registered national securities exchanges to promulgate rules relating to call and put margin requirements.

holder's obligations under the Transactions, the proposal would require:

1. The account holder to (A) pledge the Vested Employee Options to the broker-dealer and (B) provide the broker-dealer with an irrevocable power-of-attorney authorizing the broker-dealer to exercise the Vested Employee Options on the account holder's behalf if the listed call options are assigned or if the broker-dealer determines it is necessary. The irrevocable power-of-attorney may also be used in the event the account holder wishes to close the listed option position prior to its expiration and instructs the broker-dealer to exercise that number of Vested Employee Options necessary to cover the cost of the closing purchase (the account holder will also have the option of depositing additional cash in the account holder's account to cover the cost of the closing purchase).

2. In the event the Vested Employee Options are exercised between the date of the Transaction in the listed call options (the ''Commencement Date'') and the date the Transaction is closed (the ''Closing Date''), the shares issued upon exercise will be pledged to the broker-dealer (thereby replacing the Vested Employee Options that had been pledged prior to exercise). For example, during the time a Transaction is pending, the account holder may resign from the account holder's employment with the Issuer and may be required to exercise the Vested Employee Options within a certain timeframe following the account holder's departure. In such a scenario, the account holder would ask the broker dealer to exercise the Vested Employee Options and the stock issued pursuant to the exercise would be pledged to the broker-dealer.

3. The Issuer will promptly deliver the stock upon payment or receipt of the exercise notice from the broker-dealer.[6] The Issuer will also agree prior to the Commencement Date to waive any forfeiture conditions that otherwise might apply to the Vested Employee Options (*e.g.,* upon a termination of the account holder's employment with the Issuer) as well as any transfer restrictions that would preclude pledge of the Vested Employee Options to the broker-dealer. In addition, the Issuer will represent that the Vested Employee Options are covered by an effective registration statement on Form S–8. If the registration statement becomes ineffective the Issuer will notify the broker-dealer immediately.

4. Because it is essential that the account holder, broker-dealer and Issuer cooperate and are each fully informed, agree to and acknowledge their own and each other's responsibilities, all Transactions will be governed by an agreement (the ''Agreement'') entered into by the account holder, broker-dealer and Issuer prior to the Commencement Date of the first transaction. The Agreement would generally set forth each party's obligations, representations and acknowledgements and the terms and conditions governing the Transactions and must be in a form acceptable to the Exchange.[7]

5. Such other terms and conditions prescribed by the Exchange in accordance with such form, formats and procedures as may be established by the Exchange from time to time would also apply. In this regard, upon approval of the proposed rule change and for a period of one year, the Exchange will require that, prior to the Commencement Date, a legal opinion with respect to the account holder's and Issuer's legal right to enter into the Transactions under the terms of the Issuer's employee stock option plan and related documents (the ''Legal Opinion'') be obtained in a form acceptable to the Exchange. During the one-year time period, the Exchange may determine that such Legal Opinion is no longer necessary and will revise its established forms, formats and procedures accordingly.

III. Discussion and Commission's Findings

After careful review of the proposed rule change, the comment letter and CBOE's response, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[8]

In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5),[9] in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will offer market participants new trading opportunities and will enhance the Exchange's competitive position.

The Commission received one comment letter, in support of the proposal, stating that the proposed rule change is ''a great idea, allowing employees to monetize the time value of their options.''[10]

The Commission believes that the proposed rule change to amend the Exchange's margin rule should be allowed. However, the Commission does have significant concerns with the amount of control each broker-dealer has over the Vested Employee Options. One purpose of the margin rules is to protect broker-dealers in the event of market turmoil. The broker-dealer must have enough control over the cash or securities it is holding as margin on behalf of investors to be able to act unilaterally to protect itself. With Vested Employee Options, the broker-dealer cannot act unilaterally to use the margin deposited by the customer (*i.e.,* the Vested Employee Options); instead, the broker-dealer must rely on another person (*i.e.,* the issuer) to promptly deliver the required shares. For example, if an issuer notifies the broker-dealer that there is an ineffective registration statement, it could prevent the broker-dealer from exercising the options and receiving publicly tradable shares, a prospect that could cause financial harm to the broker-dealer.

The Commission raised these concerns in the Notice by noting in a footnote that absent relief from the Commission, broker-dealers would need to take a capital charge for any unsecured margin debt and by asking questions about how the broker-dealer's legal authority to exercise the Vested Employee Options could be enhanced and how to limit the liquidity and operational risks arising from the Transactions. The Commission received no comments on this footnote or these questions. Thus, for purposes of determining whether an account is unsecured or partly secured pursuant to the net capital rule,[11] including an account containing a Transaction, a broker-dealer may not include the value of a Vested Employee Option.

[6] The Exchange will proscribe a set delivery period, which is expected to be no later than three business days following assignment of the listed options.

[7] In this regard, the Exchange currently intends to recognize the Master Vested Stock Option Monetization Agreement, created by iOptions Group, LLC, as one acceptable agreement.

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Rathinasamy Letter, *supra* note 4.

[11] 17 CFR 240.15c3–1.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2008–55), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14797 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60127; File No. SR–ISE–2007–121]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1, Relating to Margin Requirements

June 17, 2009.

I. Introduction

On December 24, 2007, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] the International Securities Exchange, LLC (the ''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to modify its margin requirements to facilitate, under certain circumstances, the ability of account holders to use vested and currently exercisable compensatory employee stock options (''Vested Employee Options'') issued by publicly traded companies as collateral for writing call options that have the same underlying security as the Vested Employee Options. On April 29, 2009, ISE filed Amendment No. 1. The proposed rule change was published for comment in the **Federal Register** on May 13, 2009.[3] The Commission received no comments on the proposed rule change.

II. Description

The Exchange proposes to amend its margin requirements to facilitate, under certain circumstances, the ability of account holders to use Vested Employee Options issued by publicly traded companies (''Issuers'') as collateral for writing call options that have the same underlying security as the Vested Employee Options. Specifically, the proposal would allow account holders to sell, as a hedge, listed equity call options on the same underlying security as the account holder's Vested Employee Options without the requirement of margin (the ''Transactions''). The proposal would permit account holders to engage in the Transactions using their Vested Employee Options as collateral. Currently, such Transactions would be deemed ''naked'' for purposes of margin rules and subject to a deposit of cash margin, effectively making the strategies cost prohibitive and impractical. The Exchange believes that enabling employees who hold Vested Employee Options to generate income and liquidity on their otherwise illiquid asset through the listed options markets will benefit investors by providing greater transparency and liquidity.

Under Section 220.12(f)(1) of Regulation T,[4] the Exchange, as a registered national securities exchange, is permitted to recognize the type of transactions described below as eligible for margin treatment subject to the approval of the Commission.

The proposal would permit account holders to sell listed call options on the same security that underlies their Vested Employee Options without the requirement of margin. Given the uncertificated nature of employee stock options, in order to secure the account holder's obligations under the Transactions, the proposal would require:

1. The account holder to (A) pledge the Vested Employee Options to the broker-dealer and (B) provide the broker-dealer with an irrevocable power-of-attorney authorizing the broker-dealer to exercise the Vested Employee Options on the account holder's behalf if the listed call options are assigned or if the broker-dealer determines it is necessary. The irrevocable power-of-attorney may also be used in the event the account holder wishes to close the listed option position prior to its expiration and instructs the broker-dealer to exercise that number of Vested Employee Options necessary to cover the cost of the closing purchase (the account holder will also have the option of depositing additional cash in the account holder's account to cover the cost of the closing purchase).

2. In the event the Vested Employee Options are exercised between the date of the Transaction in the listed call options (the ''Commencement Date'') and the date the Transaction is closed (the ''Closing Date''), the shares issued upon exercise will be pledged to the broker-dealer (thereby replacing the Vested Employee Options that had been pledged prior to exercise). For example, during the time a Transaction is pending, the account holder may resign from the account holder's employment with the Issuer and may be required to exercise the Vested Employee Options within a certain timeframe following the account holder's departure. In such a scenario, the account holder would ask the broker dealer to exercise the Vested Employee Options, and the stock issued pursuant to the exercise would be pledged to the broker-dealer.

3. The Issuer will promptly deliver the stock upon payment or receipt of the exercise notice from the broker-dealer.[5] The Issuer will also agree prior to the Commencement Date to waive any forfeiture conditions that otherwise might apply to the Vested Employee Options (*e.g.,* upon a termination of the account holder's employment with the Issuer) as well as any transfer restrictions that would preclude pledge of the Vested Employee Options to the broker-dealer. In addition, the Issuer will represent that the Vested Employee Options are covered by an effective registration statement on Form S–8. If the registration statement becomes ineffective, the Issuer will notify the broker-dealer immediately.

4. Because it is essential that the account holder, broker-dealer and Issuer cooperate and are each fully informed, agree to and acknowledge their own and each other's responsibilities, all Transactions will be governed by an agreement (the ''Agreement'') entered into by the account holder, broker-dealer and Issuer prior to the Commencement Date of the first transaction. The Agreement would generally set forth each party's obligations, representations and acknowledgements and the terms and conditions governing the Transactions and must be in a form acceptable to the Exchange.[6]

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[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59877 (May 6, 2009), 74 FR 22611 (May 13, 2009) (''Notice'').

[4] Section 220.12(f)(1) of Regulation T (12 CFR 220), *Supplement: Margin Requirements,* grants authority to registered national securities exchanges to promulgate rules relating to call and put margin requirements.

[5] The Exchange will proscribe a set delivery period, which is expected to be no later than three business days following assignment of the listed options.

[6] In this regard, the Exchange currently intends to recognize the Master Vested Stock Option Monetization Agreement, created by iOptions Group, LLC, as one acceptable agreement.

5. Such other terms and conditions prescribed by the Exchange in accordance with such form, formats and procedures as may be established by the Exchange from time to time would also apply. In this regard, upon approval of the proposed rule change and for a period of one year, the Exchange will require that, prior to the Commencement Date, a legal opinion with respect to the account holder's and Issuer's legal right to enter into the Transactions under the terms of the Issuer's employee stock option plan and related documents (the ''Legal Opinion'') be obtained in a form acceptable to the Exchange. During the one-year time period, the Exchange may determine that such Legal Opinion is no longer necessary and will revise its established forms, formats and procedures accordingly.

III. Discussion and Commission's Findings

After careful review of the proposed rule change and ISE's response, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[7]

In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5),[8] in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will offer market participants new trading opportunities and will enhance the Exchange's competitive position.

The Commission believes that the proposed rule change to amend the Exchange's margin rule should be allowed. However, the Commission does have significant concerns with the amount of control each broker-dealer has over the Vested Employee Options. One purpose of the margin rules is to protect broker-dealers in the event of market turmoil. The broker-dealer must have enough control over the cash or securities it is holding as margin on behalf of investors to be able to act unilaterally to protect itself. With Vested Employee Options, the broker-dealer cannot act unilaterally to use the margin deposited by the customer (*i.e.,* the Vested Employee Options); instead, the broker-dealer must rely on another person (*i.e.,* the issuer) to promptly deliver the required shares. For example, if an issuer notifies the broker-dealer that there is an ineffective registration statement, it could prevent the broker-dealer from exercising the options and receiving publicly tradable shares, a prospect that could cause financial harm to the broker-dealer.

The Commission raised these concerns in the Notice by noting in a footnote that absent relief from the Commission, broker-dealers would need to take a capital charge for any unsecured margin debt and by asking questions about how the broker-dealer's legal authority to exercise the Vested Employee Options could be enhanced and how to limit the liquidity and operational risks arising from the Transactions. The Commission received no comments on this footnote or these questions. Thus, for purposes of determining whether an account is unsecured or partly secured pursuant to the net capital rule,[9] including an account containing a Transaction, a broker-dealer may not include the value of a Vested Employee Option.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–ISE–2007–121), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14798 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

[7] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 240.15c3–1.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60129; File No. SR–CBOE–2009–030]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Regarding Appointments of CBSX DPMs

June 17, 2009.

On May 7, 2009, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding appointments of Designated Primary Market-Makers (''DPMs'') on the CBOE Stock Exchange (''CBSX''). The proposed rule change was published for comment in the **Federal Register** on May 15, 2009.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

CBOE proposed to amend its rules regarding appointments of CBSX DPMs. Currently, every security traded on CBSX must be assigned to a DPM.[4] The Exchange's proposal will modify its rules to provide the Exchange with the flexibility to commence trading in a security on the CBSX without an assigned DPM. The Exchange represented that some securities are not traded on CBSX because DPMs have opted to not seek assignments in such securities. The Exchange's proposal will allow CBSX users the ability to trade these securities on CBSX without them being quoted by a DPM. The Exchange has also represented that this proposed modification to CBSX Rule 53.54 is not intended to in any way affect existing DPM appointments. The Exchange will notify its market participants of those securities that will trade without a DPM via a circular.

CBOE's proposal will also modify CBSX Rule 53.56 to change the time DPMs are required to begin providing quotes from 8:15 a.m. to 8:30 a.m. (Chicago time). Lastly, CBOE's proposal will eliminate CBSX Rule 53.54 which governed the allocation process used by CBSX prior to its initial launch.

The Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[5] which requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[6] The Act does not mandate a particular market structure or, specifically, that an exchange have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59896 (May 11, 2009), 74 FR 22991 (''Notice'').

[4] *See* CBSX Rule 53.54. A CBSX DPM is a market-maker that must, among other things, provide opening and continuous quotes in its assigned securities. *See* CBSX Rule 53.56.

[5] 15 U.S.C. 78f(b)(5).

[6] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

specialists or the equivalent (which are known as DPMs on CBSX). Therefore, the Commission believes that it is reasonable and consistent with the Act to make additional securities available for trading on CBSX without the participation of a DPM. In taking this action, the Commission has relied on CBOE's representation that this proposal is not intended to affect existing DPM appointments. The Commission further believes that it is within the discretion of the Exchange to require DPMs to begin quoting in their required securities at 8:30 a.m. rather than, as under the Exchange's current rule, at 8:15 a.m. (Chicago time).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CBOE–2009–030) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14799 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60117; File No. SR–NYSEAmex–2009–25]

Self-Regulatory Organizations; NYSE Amex, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Schedule of Fees and Charges for Exchange Services by Adding a Ratio Threshold Fee

June 16, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 10, 2009, NYSE Amex LLC. (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') by adding a Ratio Threshold Fee. While changes to the Schedule pursuant to this proposal will be effective upon filing, the proposed fee will become operative on June 10, 2009. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes adding a Ratio Threshold Fee to its Fee Schedule. The proposed Ratio Threshold Fee will be charged to ATP Holders based on the number of orders entered compared to the number of executions received in a calendar month. The fee will be assessed as follows:

Monthly order to execution ratio	Monthly charge
Between 10,000 and 14,999 to 1 ...	$5,000
Between 15,000 and 19,999 to 1 ...	10,000
Between 20,000 and 24,999 to 1 ...	20,000
25,000 to 1 and greater	35,000

This fee shall not apply to orders that improve the Exchange's prevailing best bid-offer (BBO) market at the time the orders are received.

ATP Holders with order to execution ratios of 10,000 to 1 or greater have the potential residual effect of exhausting system resources, bandwidth, and capacity. Such order to execution ratios may, in turn, create latency and impact other ATP Holder's ability to receive timely executions. Recognizing that orders and executions often occur in large numbers, the purpose of this fee is to focus on activity that is truly disproportionate while fairly allocating costs among members. The proposed fee has multiple thresholds and is greater at higher order to execution ratios because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased order to execution ratios.

Additionally, the Exchange proposes an exception whereby ATP Holders will not be charged the Ratio Threshold Fee if they incur charges on a monthly basis pursuant to the Cancellation Fee. The Cancellation Fee is charged only for cancelled public customer orders in excess of the established thresholds and is designed to protect customer priority. By virtue of this exception, the Ratio Threshold Fee will, in effect, only be assessed on non-customer orders. Due to the necessity of the Cancellation Fee to protect customer priority and the Exchange's need to allocate costs for the use of bandwidth and capacity among all members, the Exchange believes the structure of the Ratio Threshold Fee compared to the Cancellation Fee is appropriate because firms paying the Cancellation Fee will not also be charged the Ratio Threshold Fee.

The new Ratio Threshold Fee will become effective on June 10, 2009.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4), in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members and other market participants that use the trading facilities of NYSE Amex Options. Under this proposal, all similarly situated members of NYSE Amex Options will be charged the same reasonable dues, fees and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[4] of the Act and subparagraph (f)(2) of Rule 19b–4[5] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Amex.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2009–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–25 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14723 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60132; File No. SR–FINRA–2009–015]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to Expedited Administration of Promissory Note Cases

June 17, 2009.

On April 7, 2009, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to the Code of Arbitration Procedure for Industry Disputes (''Industry Code''). The proposed rule change was published for comment in the **Federal Register** on May 14, 2009.[3] The Commission received no comments on the proposed rule change.

I. Description of the Proposal

FINRA proposed to adopt Rule 13806 of the Code of Arbitration Procedure for Industry Disputes (''Industry Code''), to establish procedures to expedite the administration of arbitrations in which a member's only claim is that an associated person failed to pay money owed on a promissory note; and to amend Rules 13214 and 13600 of the Industry Code to make conforming changes.

In order to proceed under proposed new Rule 13806, a claimant would not be permitted to include any additional allegations in the Statement of Claim. FINRA stated that, in the absence of additional allegations by members or associated persons, promissory note cases involve straightforward contracts with few documents being entered into evidence. The new procedures would streamline the process for promissory note cases and reduce expenses for the parties while maintaining the procedural safeguards in the Industry Code for the associated person against whom a member asserts a claim.

Specifically, under the proposed procedures:

- Parties would choose a single public arbitrator from the roster of arbitrators approved to hear statutory discrimination claims,[4] unless an associated person files a counterclaim or third party claim of more than $100,000, exclusive of interest or expenses, or the counterclaim or third party claim is unspecified or does not request money damages.[5] In FINRA's view, the arbitrators on this roster would be especially suited to resolve these disputes because of the depth of their experience and their familiarity with employment law;
- If the associated person does not file an answer, simplified discovery procedures would apply[6] and, regardless of the amount in controversy, the single arbitrator would render an award based on the pleadings and other materials submitted by the parties. The arbitrator would be paid an honorarium

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 59885 (May 7, 2009); 74 FR 22788 (May 14, 2009).

[4] *See* Rule 13802(c)(3). These specially qualified arbitrators are attorneys familiar with employment law who have at least ten years of legal experience. In addition, a chair or single arbitrator may not have represented primarily the views of employers or of employees within the last five years. Primarily means 50 percent or more of the arbitrator's business or professional activities within the last five years.

[5] The $100,000 threshold was chosen because FINRA recently raised the threshold for a single chair-qualified arbitrator in all cases to $100,000. Under the rule change, if the amount of a claim is more than $100,000, exclusive of interest and expenses, or is unspecified, or if the claim does not request money damages, the panel will consist of three arbitrators, unless the parties agree in writing to one arbitrator. *See* Exchange Act Release No. 59340 (February 2, 2009), 74 FR 6335 (February 6, 2009) (SR–FINRA–2008–047).

[6] Rule 13800(d) (Simplified Arbitration—Discovery and Additional Evidence) provides for limited discovery in arbitrations involving $25,000 or less, exclusive of interest and expenses.

of $125 for each arbitration resolved in this manner;[7]

• If the associated person files an answer (but does not seek any additional relief or assert any counterclaims or third party claims), regular discovery procedures would apply[8] and, regardless of the amount in controversy, the single arbitrator would hold a hearing; and

• If the associated person files a counterclaim or third party claim, then regular discovery procedures would apply and panel composition would be based on the amount of the counterclaim or third party claim. If the counterclaim and/or third party claim is not more than $100,000, exclusive of interest and expenses, the Director[9] would appoint a single public arbitrator from the roster of arbitrators approved to hear statutory discrimination claims. If the counterclaim and/or third party claim is more than $100,000, exclusive of interest and expenses, then the Director would appoint a three-arbitrator panel. The Director would appoint one public arbitrator from the roster of arbitrators approved to hear statutory discrimination claims who would serve as chairperson, one arbitrator from the public roster, and one arbitrator from the non-public roster. If the counterclaim or third party claim is filed after a single arbitrator is appointed, and a three-arbitrator panel is required, the Director would retain the appointed arbitrator as chair and appoint two additional arbitrators (one public and one non-public arbitrator). Regardless of whether the panel is composed of one or three arbitrators, FINRA would pay the arbitrators the honoraria provided for in the Industry Code for arbitrations resolved by a hearing.

FINRA has proposed to amend Rule 13214 (Payment of Arbitrators) to reflect that the rule applies to arbitrator honoraria except as specified in new Rule 13806(f) or as specifically excluded in Rule 13214. Under the proposal, FINRA would pay an arbitrator an honorarium of $125 for each arbitration in which the associated person does not file an answer and the award is based on the arbitrator's review of the pleadings and other materials submitted by the parties. As these are expedited proceedings, FINRA would not pay an honorarium for resolving a discovery-related motion without a hearing session or for resolving a contested motion concerning issuance of a subpoena without a hearing session. In instances where full discovery would be conducted under the 13500 series of rules, FINRA would pay the honorarium prescribed in Rule 13214 for discovery-related motions without a hearing session and for contested motions concerning issuance of a subpoena without a hearing session.

FINRA, in addition, proposed to amend Rule 13600 (Required Hearings) to reflect that a hearing will be held unless new Rule 13806(e)(1) provides otherwise. Under the proposal, if the associated person does not file an answer, no initial prehearing conference or hearing would be held. Generally, in the absence of additional allegations by members or associated persons, promissory note cases involve straightforward contracts with few documents entered into evidence. FINRA believes that, in these situations, promissory note cases would be processed more quickly and efficiently and expenses would be reduced for the parties and the forum if the arbitrator were to render the award on the pleadings and other materials submitted by the parties.[10] In FINRA's view, the new procedures would not negatively impact its administration of other cases filed in the forum.

II. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[12] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change will protect the public interest by helping to ensure that promissory note cases are processed quickly and efficiently, and by helping to reduce expenses for the parties and the forum without adversely affecting the administration of other cases filed with the forum.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–FINRA–2007–015) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14726 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60123; File No. SR–NYSEAmex–2009–28]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Available Without Charge the NYSE Amex OpenBook™ Datafeeds

June 17, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 12, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[7] In simplified arbitration proceedings administered under Rules 12800 and 13800 (Simplified Arbitration), the arbitrator honorarium is $125. The honorarium under proposed Rule 13806 is intended to be consistent with these rules.

[8] The 13500 series of rules would provide for prehearing procedures and discovery in these cases.

[9] Rule 13100(k) defines the term ''Director'' to mean the ''Director of FINRA Dispute Resolution. Unless the Code provides that the Director may not delegate a specific function, the term includes FINRA staff to whom the Director has delegated authority.''

[10] The rationale for the proposed rule change was confirmed in a phone conversation with Margo Hassan and Ken Andrichik of FINRA, on May 6, 2009.

[11] In approving the proposed rule change, the Commission has considered the rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78*o*–3(b)(6).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make available without charge the NYSE Amex OpenBook datafeeds. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex proposes to make available without charge the NYSE Amex OpenBook datafeeds.

The Service

NYSE Amex OpenBook responds to the desire of some market participants for depth-of-market data. It is a compilation of limit order data resident in the NYSE Amex limit order book for both equities and options traded on NYSE Amex (collectively, ''NYSE Amex Data'') that the Exchange provides through two real-time datafeeds, one for NYSE Amex OpenBook data relating to equity securities that trade through NYSE Amex facilities and one for NYSE Amex OpenBook data relating to options traded through NYSE Amex facilities.[4] The Exchange updates NYSE Amex OpenBook information upon receipt of each displayed limit order. For every limit price, NYSE Amex OpenBook includes the aggregate order volume. The Exchange makes the datafeeds available to market data vendors, broker-dealers, private network providers and other entities (collectively, ''Vendors'').

Some of the depth-of-book information included in NYSE Amex OpenBook is not available through the CQ Plan, the ''Reporting Plan for Nasdaq/National Market System Securities Traded on an Exchange on an Unlisted or Listed Basis'' (the ''UTP Plan'')[5] or the OPRA Plan.[6] By making NYSE Amex Data available, NYSE Amex OpenBook enhances market transparency and fosters competition among orders and markets. The Exchange makes the datafeeds available to members and non-members, and permits Vendors to make it available to both professional and nonprofessional subscribers.

NYSE Amex contemplates that it will propose to impose fees for the receipt, display and use of NYSE Amex OpenBook. NYSE Amex will submit a proposed rule change to the Commission in order to implement those fees.

Contracts

The Exchange will require each recipient of a datafeed containing NYSE Amex Data to enter into the form of ''vendor'' agreement into which the CTA and CQ Plans require recipients of the Network A datafeeds to enter (the ''Consolidated Vendor Form''). That agreement will authorize the datafeed recipient to provide NYSE Amex Data services to its customers or to distribute the data internally.

In addition, the Exchange will require each professional end-user that receives NYSE Amex Data displays from a vendor or broker-dealer to enter into the form of professional subscriber agreement into which the CTA and CQ Plans require end users of Network A data to enter and to require vendors and broker-dealers to subject nonprofessional subscribers to the same contract requirements as the CTA and CQ Plan Participants require of Network A non-professional subscribers.

The Network A Participants drafted the vendor and Network A professional subscriber agreements as one-size-fits-all forms to capture most categories of market data dissemination. They are sufficiently generic to accommodate NYSE Amex Data, subject to the Exhibit C requirements described below. The Network A Participants submitted the Consolidated Vendor Form and the professional subscriber form to the Commission for comment and notice.[7]

Because it was recognized that the Consolidated Vendor Form could not anticipate every aspect of a vendor's receipt and use of market data or future advances in technology or new product offerings, Paragraph 19(a) of the form provides that ''Exhibit C, if any, contains additional provisions applicable to any non-standard aspects of Customer's Receipt and Use of Market Data.''

NYSE Amex proposes to subject NYSE Amex OpenBook datafeed recipients to the same ''additional'' provisions as NYSE imposes on recipients of NYSE OpenBook in an Exhibit C that is substantially the same as the NYSE OpenBook Exhibit C. (Exhibit 5 presents the form of Exhibit C that the Exchange proposes to use for NYSE AmexOpenBook.) Those Exhibit C terms and conditions would:

- Require any display or montage that incorporates NYSE Amex OpenBook data with limit orders or other market information that any source other than NYSE Amex makes available (an ''Integrated Display'') to associate the identifier ''NYSE Amex'' with each element or line of NYSE Amex OpenBook data that is included in the Integrated Display, or require the Vendor to provide a second integrated display (an ''Attributed Integrated Display'') that includes such an identifier.
- Require the Vendor to indicate in any Attributed Integrated Display the number of shares attributable to the NYSE Amex OpenBook bids and offers at each price level.
- Require any Vendor that makes Integrated Displays available to also:

a. Make NYSE Amex OpenBook Information available as a product that is separate and apart from information products that include other market centers' information; and

b. Make its subscribers aware of the availability of the stand-alone NYSE OpenBook product in the same manner as it makes its subscribers aware of the integrated product; and (iv).

- Require each Vendor to add to Exhibit A a sample of each new screen shot to demonstrate the manner of the

[4] The NYSE Amex OpenBook datafeed has been operational since December 1, 2008 and has been provided free of charge.

[5] The Exchange does not currently trade securities for which reporting takes place under the UTP Plan (''UTP Plan Securities''), though it has done so in the past and anticipates doing so in the near future. Once that [sic] trading re-commences, the NYSE Amex OpenBook equities datafeed will include data relating to UTP Plan Securities, as well as data relating to securities that report under the CTA Plan (''CTA Plan Securities''). For that reason, the proposed rule change applies to NYSE Amex Data relating to UTP Plan Securities, as well as to NYSE Amex Data relating to CTA Plan Securities.

[6] The Exchange notes that it makes available to vendors the best bids and offers that are included in NYSE Amex OpenBook data no earlier than it makes those best bids and offers available to the processors under the CQ Plan, the UTP Plan and the OPRA Plan.

[7] *See* Securities Exchange Act Release Nos. 22851 (January 31, 1986), 51 FR 5135 (February 11, 1986); 28407 (September 6, 1990), 55 FR 37276 (September 10, 1990) (File No. 4–281); and 49185 (February 4, 2004), 69 FR 6704 (February 11, 2004) (SR–CTA/CQ–2003–01).

display and any modification to previous displays.

The Vendor is required to submit the new screen shot no later than at the time it first commences to provide the new or modified display to others.

The display requirements do not apply insofar as the data recipient distributes NYSE AMEX OpenBook data to its officers, partners and employees or to those of its affiliates.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,[8] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of NYSE Amex OpenBook data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing in order to immediately provide market participants that use NYSE Amex OpenBook with more information about the current state of the NYSE Amex market and provide increased transparency to market participants. The Commission believes such waiver is consistent with the protection of investors and the public interest.[11] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2009–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–28. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–28 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

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BILLING CODE 8010–01–P

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60130; File No. SR–CBOE–2009–038]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Related to the Complex Order Book

June 17, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 16, 2009, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Rule 6.53C, ''Complex Orders on the Hybrid System,'' with respect to order and quote types that may be entered to trade against orders in the complex order book (''COB'') system. The text of the proposed rule change is available on the Exchange's Web site at (*http://www.cboe.org/Legal*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Rule 6.53C(c)(1), the Exchange determines which classes and which complex order origin types (*i.e.,* non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange) are eligible for entry into the COB and whether such complex orders can route directly to the COB and/or from PAR to the COB. Complex orders not eligible to route to COB (either directly or from PAR to COB) route to PAR. In addition, Rule 6.53C(c)(ii)(3) provides in relevant part that market participants, as defined in Rule 6.45A or 6.45B, may submit orders or quotes to trade against orders resting in the COB.

Depending on the particular option class, orders and quotes submitted by market participants may or may not be eligible to rest in COB. For example, the Exchange may determine for a particular option class that only non-broker-dealer public customer and broker-dealers that are not Market-Makers or specialists on an options exchange are eligible to rest in COB. For that class, Market-Maker orders and quotes would not be eligible to rest in COB, but may be submitted to trade against orders resting in COB pursuant to subparagraph (c)(ii)(3).

Currently, market participants whose orders and quotes are not eligible to rest in COB but who wish to trade against orders resting in the COB may enter limit orders using an immediate-or-cancel (''IOC'') contingency to avoid resting in COB. Alternatively, if an IOC contingency is not used, a market participant needs to cancel any remaining volume for a limit order or quote after the limit order or quote trades against an order resting in COB.

The Exchange now proposes to amend Rule 6.53C(c)(ii)(3) to provide that market participants entering orders or quotes that are not eligible to rest in the COB may only enter IOC orders, and such other order or quote types as the Exchange may determine on a class-by-class basis, to trade against orders resting in the COB. For orders types that are not eligible to rest in or trade against the COB, the orders will be automatically routed to PAR or at the order entry firm's discretion to the order entry firm's booth. For quotes types that are not eligible to rest in or trade against the COB, the quotes will be automatically cancelled. In this regard, the Exchange notes that only Market-Makers may enter quotes. The Exchange also notes that, should the Exchange determine that Market-Maker quotes are not eligible to rest in or trade against the COB, Market-Makers would at a minimum be permitted to submit IOC orders to trade against the COB.

Finally, the Exchange is also proposing changes to the text of Rule 6.53C(c)(i) to clarify that complex orders not eligible to rest in or trade against the COB will route to PAR or at the order entry firm's discretion to the order entry firm's booth. Currently the rule text in this subparagraph only references that such orders will route to PAR.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [3] in general and furthers the objectives of Section 6(b)(5) of the Act [4] in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that the addition of the new functionality further automates the handling of complex orders and quotes in accordance with the requirements of Rule 6.53C.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2009–038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2009–038. This file number should be included on the

subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2009–038 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14800 Filed 6–23–09; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60131; File No. SR–NYSE–2009–57]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending Until July 15, 2009 the Operation of Interim NYSE Rule 128, Which Permits the Exchange To Cancel or Adjust Clearly Erroneous Executions

June 17, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. NYSE has designated the proposed rule change as constituting a rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend until July 15, 2009, the operation of interim NYSE Rule 128 (''Clearly Erroneous Executions for NYSE Equities'') which permits the Exchange to cancel or adjust clearly erroneous executions if they arise out of the use or operation of any quotation, execution or communication system owned or operated by the Exchange, including those executions that occur in the event of a system disruption or system malfunction. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend until July 15, 2009, the operation of interim NYSE Rule 128 (''Clearly Erroneous Executions for NYSE Equities'') which permits the Exchange to cancel or adjust clearly erroneous executions if they arise out of the use or operation of any quotation, execution or communication system owned or operated by the Exchange, including those executions that occur in the event of a system disruption or system malfunction.

[3] 17 CFR 240.19b–4(f)(6).

Prior to the implementation of NYSE Rule 128 on January 28, 2008,[4] the NYSE did not have a rule providing the Exchange with the authority to cancel or adjust clearly erroneous trades of securities executed on or through the systems and facilities of the NYSE.

In order for the NYSE to be consistent with other national securities exchanges which have some version of a clearly erroneous execution rule, the Exchange is drafting an amended clearly erroneous rule which will accommodate such other exchanges but will be appropriate for the NYSE market model.

The NYSE notes that the Commission approved an amended clearly erroneous execution rule for Nasdaq in May 2008.[5] On July 28, 2008, the Exchange filed with the SEC a request to extend the operation of interim Rule 128 until October 1, 2008[6] in order to review the provisions of Nasdaq's clearly erroneous rule and to consider integrating similar standards into its own amendment to Rule 128. On October 1, 2008[7], the Exchange filed with the SEC a further request to extend the operation of interim Rule 128 until January 9, 2009 in order to consider integrating similar standards into the amendment to Rule 128. On January 9, 2009[8], the Exchange filed with the SEC a request to extend the operation of interim Rule 128 until March 9, 2009, indicating that the Exchange was still in the process of reviewing the Nasdaq rule with a view towards incorporating certain provisions into the amendment of interim Rule 128.

On February 10, 2009, NYSE Arca submitted a proposal to the SEC to amend its clearly erroneous rule. The NYSE Arca proposed rule differed in certain respects from the Nasdaq clearly erroneous rule. On March 9, 2009, the Exchange filed with the SEC a request to extend the operation of interim Rule 128 until June 9, 2009[9] to finalize

[4] *See* Securities Exchange Act Release No. 57323 (February 13, 2008), 73 FR 9371 (February 20, 2008) (SR–NYSE–2008–09).

[5] *See* Securities Exchange Act Release No. 57826 (May 15, 2008), 73 FR 29802 (May 22, 2008) (SR–NASDAQ–2007–001).

[6] *See* Securities Exchange Act Release No. 58328 (August 8, 2008), 73 FR 47247 (August 13, 2008) (SR–NYSE–2008–63).

[7] *See* Securities Exchange Act Release No. 58732 (October 3, 2008), 73 FR 61183 (October 15, 2008) (SR–NYSE–2008–99).

[8] *See* Securities Exchange Act Release No. 59255 (January 15, 2009) 74 FR 4496 (January 26, 2009) (SR–NYSE–2009–02).

[9] *See* Securities Exchange Act Release No. 59581 (March 9, 2009) 74 FR 12431 (March 24, 2009) (SR–NYSE–2009–26).

review of NYSE Arca's proposed amended CEE rule, which included market wide CEE initiatives, to determine if it was appropriate to incorporate such provisions into the Rule 128 amendment.

Thereafter, on April 24, 2009, NYSE Arca filed a revised rule change with the Commission to amend its clearly erroneous rule.[10] The Exchange is in the process of finalizing its review of NYSE Arca's revised CEE rule change, which also includes market wide CEE initiatives, to determine if it is appropriate to incorporate all such provisions into NYSE's interim Rule 128 amendment.

The Exchange is, therefore, requesting to extend the operation of interim Rule 128 until July 15, 2009. Prior to July 15, 2009, the Exchange intends to file a 19b–4 rule change amending interim Rule 128, which, if approved by the SEC, will be effective after July 15, 2009.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') [11] for this proposed rule change is the requirement under Section 6(b)(5) [12] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE requests that the Commission waive the 30-day operative delay because the Exchange believes that the absence of such a rule in an automated and fast-paced trading environment poses a danger to the integrity of the markets and the public interest. NYSE notes that immediate effectiveness of the proposed rule change will immediately and timely enable NYSE to cancel or adjust clearly erroneous trades that may present a risk to the integrity of the equities markets and all related markets. The Commission believes that waiving the 30-day operative delay [17] is consistent with the protection of investors and the public interest because such waiver will permit the Exchange to continue operation of interim NYSE Rule 128 on an uninterrupted basis, and therefore designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–57 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2009–57 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14801 Filed 6–23–09; 8:45 am]

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[10] *See* Securities Exchange Act Release No. 59838 (April 28, 2009) 74 FR 20767 (May 5, 2009) (SR–NYSEArca–2009–36).

[11] 15 U.S.C. 78f(a).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing period in this case.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60135; File No. SR–FINRA–2009–014]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rule 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts) in the Consolidated FINRA Rulebook

June 18, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''SEA'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2009, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items substantially have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt certain paragraphs, as specified below, of NASD Rule 2330 (Customers' Securities or Funds) as FINRA Rule 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts) in the consolidated FINRA rulebook taking into account certain provisions of Incorporated NYSE Rule 352 (Guarantees, Sharing in Accounts, and Loan Arrangements) [3] and to delete NYSE Rule 352, with the exception of NYSE Rules 352(e) (Limitations on Borrowing From or Lending to Customers), 352(f) (Loan Procedures) and 352(g).

The proposed rule change would renumber NASD Rule 2330(a) (Improper Use) as FINRA Rule 2150(a) (Improper Use), NASD Rule 2330(e) (Prohibition Against Guarantees) as FINRA Rule 2150(b) (Prohibition Against Guarantees) and NASD Rule 2330(f) (Sharing in Accounts; Extent Permissible) as FINRA Rule 2150(c) (Sharing in Accounts; Extent Permissible) in the consolidated FINRA rulebook. The proposed rule change also would add a ''Supplementary Material'' section to proposed FINRA Rule 2150 that contains certain clarifications and codifications of existing staff guidance. The text of the proposed rule change is set forth below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Text of Proposed New FINRA Rule (NASD Rules 2330(a), 2330(e) and 2330(f) and Incorporated NYSE Rules 352(a), 352(b), 352(c) and 352(d) To Be Deleted in Their Entirety From the Transitional Rulebook)

* * * * *

2000. DUTIES AND CONFLICTS

* * * * *

2100. TRANSACTIONS WITH CUSTOMERS

* * * * *

2150. Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts

(a) Improper Use

No member or person associated with a member shall make improper use of a customer's securities or funds.

(b) Prohibition Against Guarantees

No member or person associated with a member shall guarantee a customer against loss in connection with any securities transaction or in any securities account of such customer.

(c) Sharing in Accounts; Extent Permissible

(1)(A) Except as provided in paragraph (c)(2), no member or person associated with a member shall share directly or indirectly in the profits or losses in any account of a customer carried by the member or any other member; provided, however, that a member or person associated with a member may share in the profits or losses in such an account if:

(i) Such person associated with a member obtains prior written authorization from the member employing the associated person;

(ii) Such member or person associated with a member obtains prior written authorization from the customer; and

(iii) Such member or person associated with a member shares in the profits or losses in any account of such customer only in direct proportion to the financial contributions made to such account by either the member or person associated with a member.

(B) Exempt from the direct proportionate share limitation of paragraph (c)(1)(A)(iii) are accounts of the immediate family of such member or person associated with a member. For purposes of this Rule, the term ''immediate family'' shall include parents, mother-in-law or father-in-law, husband or wife, children or any relative to whose support the member or person associated with a member otherwise contributes directly or indirectly.

(2) Notwithstanding the prohibition of paragraph (c)(1), a member or person associated with a member that is acting as an investment adviser may receive compensation based on a share in profits or gains in an account if:

(A) Such person associated with a member seeking such compensation obtains prior written authorization from the member employing the associated person;

(B) Such member or person associated with a member seeking such compensation obtains prior written authorization from the customer; and

(C) All of the conditions in Rule 205–3 of the Investment Advisers Act (as the same may be amended from time to time) are satisfied.

Supplementary Material

.01 Inapplicability of Rule to Certain Guarantees. For purposes of paragraph (b) of this Rule, a ''guarantee'' that is extended to all holders of a particular security by an issuer as part of that security generally would not be subject to the prohibition against guarantees.

.02 Permissible Reimbursement by Member of Certain Losses. Nothing in this Rule shall preclude a member, but not an associated person of the member, from determining on an after-the-fact basis, to reimburse a customer for transaction losses; provided, however, that the member shall comply with all reporting requirements that may be applicable to such payment. For example, if the payment can reasonably be construed as a settlement, the member shall report the payment as a settlement under the applicable reporting requirement(s). In addition, nothing in this Rule shall preclude a member, but not an associated person of the member, from correcting a bona fide error. This Supplementary Material .02 does not apply to an associated person of a member because of the concern that any such payment may conceal individual misconduct.

.03 Record Retention. For purposes of paragraph (c) of this Rule, members shall preserve the required written authorization(s) for at least six years after the date the account is closed.

.04 Applicability of Other Rules to Sharing Arrangements. Members and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For convenience, Incorporated NYSE Rule 352 is hereinafter referred to as ''NYSE Rule 352.''

associated persons should be aware that participation in a sharing arrangement permitted under paragraph (c) of this Rule does not affect the applicability of other FINRA rules, including paragraph (b) of this Rule and NASD Rules 3030, 3040 and 3050, to such sharing arrangement.

* * * * *

Text of NASD Rules and Incorporated NYSE Rules To Remain in the Transitional Rulebook

* * * * *

NASD Rules

* * * * *

2330. Customers' Securities or Funds

(a) *Reserved.* [Improper Use]

[No member or person associated with a member shall make improper use of a customer's securities or funds.]

(b) No Change.

(c) No Change.

(d) No Change.

(e) *Reserved.* [Prohibition Against Guarantees]

[No member or person associated with a member shall guarantee a customer against loss in connection with any securities transaction or in any securities account of such customer.]

(f) *Reserved.* [Sharing in Accounts; Extent Permissible]

[(1)(A) Except as provided in paragraph (f)(2) no member or person associated with a member shall share directly or indirectly in the profits or losses in any account of a customer carried by the member or any other member; provided, however, that a member or person associated with a member may share in the profits or losses in such an account if (i) such person associated with a member obtains prior written authorization from the member employing the associated person; (ii) such member or person associated with a member obtains prior written authorization from the customer; and (iii) such member or person associated with a member shares in the profits or losses in any account of such customer only in direct proportion to the financial contributions made to such account by either the member or person associated with a member.]

[(B) Exempt from the direct proportionate share limitation of paragraph (f)(1)(A)(iii) are accounts of the immediate family of such member or person associated with a member. For purposes of this Rule, the term ''immediate family'' shall include parents, mother-in-law or father-in-law, husband or wife, children or any relative to whose support the member or person associated with a member otherwise contributes directly or indirectly.]

[(2) Notwithstanding the prohibition of paragraph (f)(1), a member or person associated with a member that is acting as an investment adviser (whether or not registered as such) may receive compensation based on a share in profits or gains in an account if (i) such person associated with a member seeking such compensation obtains prior written authorization from the member employing the associated person; (ii) such member or person associated with a member seeking such compensation obtains prior written authorization from the customer; and (iii) all of the conditions in Rule 205–3 of the Investment Advisers Act of 1940 (as the same may be amended from time to time) are satisfied.]

* * * * *

Incorporated NYSE Rules

* * * * *

Rule 352. Guarantees, Sharing in Accounts, and Loan Arrangements

[Prohibitions Against Guarantees]

(a) *Reserved.* [No member organization shall guarantee or in any way represent that it will guarantee any customer against loss in any account or on any transaction; and no member, principal executive, registered representative or officer shall guarantee or in any way represent that either he or she, or his or her employer, will guarantee any customer against loss in any customer account or on any customer transaction. The prohibitions in this paragraph extend to the payment, in whole or in part, of a debit balance.]

[Prohibition Against Sharing in Profits and Losses]

(b) *Reserved.* [Except as otherwise provided by this Rule, no member, member organization, principal executive, officer, or any other person acting in the capacity of a registered representative shall, directly or indirectly, (i) take or receive or agree to take or receive a share in the profits, or (ii) share or agree to share in any losses, in any customer's account or of any transaction effected therein.]

[Joint Accounts and Order Errors]

(c) *Reserved.* [Subject to compliance with paragraph (a), paragraph (b) of this Rule shall not preclude a member not associated with a member organization, or a member organization or, with the prior written authorization of the member organization, a member associated with such member organization, a principal executive or other person acting in the capacity of a registered representative, from participating with a customer in a joint account and sharing in the profits or losses therein in direct proportion to financial contributions made to such account. Accounts of immediate family members of such persons are exempt from the direct proportionate share limitation. (See Rule 93 for reporting and approval requirements concerning participation in joint accounts by members and member organizations.) Nor shall it preclude a member not associated with a member organization or a member organization from sharing or agreeing to share any losses in a customer account if it has been established that the loss was caused in whole or in part by an error resulting from the action or inaction of such member, member organization, or person associated therewith (See also Rule 134).]

[For purposes of this section (c), the term ''immediate family'' shall include parents, mother-in-law or father-in-law, husband or wife, children or any relative to whose support the principal executive or persons acting in the capacity of a registered representative otherwise contributes directly or indirectly.]

[Certain Investment Advisory Arrangements]

(d) *Reserved.* [Notwithstanding the prohibition of paragraph (b), a person acting as an investment adviser (whether or not registered as such) may receive compensation based on a share of profits or gains in an account if all the of the conditions in Rule 205–3 of the Investment Advisers act of 1940 (as may be amended from time to time) are satisfied. All advisory compensation arrangements should be reviewed by member organizations and their counsel in light of applicable State and Federal law (*e.g.,* ERISA).]

Limitations on Borrowing From or Lending to Customers

(e) No Change.

Loan Procedures

(f) No Change.

(g) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

As part of the process of developing a new consolidated rulebook (the ''Consolidated FINRA Rulebook''),[4] FINRA is proposing to adopt NASD Rules 2330(a), 2330(e) and 2330(f) as FINRA Rules 2150(a), 2150(b) and 2150(c), respectively, in the Consolidated FINRA Rulebook, with certain changes as described below.[5] Proposed FINRA Rule 2150 also would take into account certain provisions of NYSe Rule 352. In addition, proposed FINRA Rule 2150 includes a ''Supplementary Material'' section that contains certain clarifications and codifications of existing staff guidance. The proposed rule change would delete NYSe Rule 352 (with the exception of paragraphs (e), (f) and (g))[6] from the Transitional Rulebook.

Proposed Amendments

FINRA is proposing the following amendments.

a. Improper Use of Customers' Securities or Funds (proposed FINRA Rule 2150(a))

NASD Rule 2330(a) prohibits members and associated persons from making improper use of a customer's securities or funds. The improper use of customer securities or funds threatens the fundamental relationship between a broker and a customer and undermines the integrity of the securities industry. NASD Rule 2330(a) has proven effective through nearly 70 years of regulatory experience. There is no Incorporated NYSE Rule equivalent to NASD Rule 2330(a). FINRA is proposing to adopt NASD Rule 2330(a) as FINRA Rule 2150(a) in the Consolidated FINRA Rulebook without changes.

b. Prohibition Against Guarantees (proposed FINRA Rule 2150(b))

NASD Rule 2330(e) prohibits members and their associated persons from guaranteeing a customer against loss in connection with any securities transaction or in any securities account of the customer. The reason for the prohibition is that such guarantees create the expectation that the customer is insulated from market risk intrinsic in securities ownership and may induce the customer to engage in a securities transaction that is not otherwise appropriate for the customer.

FINRA is proposing to adopt NASD Rule 2330(e) as FINRA Rule 2150(b) in the Consolidated FINRA Rulebook without changes. FINRA is proposing to delete NYSE Rule 352(a) (Prohibitions Against Guarantees) because its provisions are substantially similar to proposed FINRA Rule 2150(b).

c. Sharing in Accounts (proposed FINRA Rule 2150(c))

NASD Rule 2330(f) prohibits members and associated persons from sharing in the profits or losses in a customer's account except under certain limited conditions. NASD Rule 2330(f)(1) permits a member or associated person to share in the profits or losses in a customer's account if: (1) The associated person obtains the prior written authorization of his or her employing member; (2) the member or associated person obtains the prior written authorization of the customer; and (3) the member or associated person shares in the profits or losses in the account only in direct proportion to the member's or associated person's financial contributions to the account. The rule exempts from the proportionality requirement accounts of the immediate family of the member or associated person. NASD Rule 2330(f)(2) permits a member or associated person that is acting as an investment adviser, whether or not registered as such under the Investment Advisers Act of 1940 (''Advisers Act''), to receive compensation based on a share in the profits or gains in a customer's account if: (1) The associated person obtains the prior written authorization of his or her employing member; (2) the member or associated person obtains the prior written authorization of the customer; and (3) all of the conditions specified in Rule 205–3 of the Advisers Act are satisfied.

Similar to NASD Rule 2330(f)(1), NYSE Rules 352(b) (Prohibition Against Sharing in Profits and Losses) and 352(c) (Joint Accounts and Order Errors) provide that sharing profits or losses in a joint account with a customer is permitted if it is in direct proportion to financial contributions made to the account, and the member provides prior written authorization. However, NYSE Rules 352(b) and (c) do not require the prior written authorization of the customer as required under NASD Rule 2330(f)(1). In addition, NYSE Rule 352(c) expressly permits sharing in customer losses resulting from an error transaction. Similar to NASD Rule 2330(f)(2), NYSE Rule 352(d) (Certain Investment Advisory Arrangements) permits sharing arrangements that comply with Section 205 of the Advisers Act and the associated rules. However, NYSE Rule 352(d) does not require members to obtain the customer's prior written authorization as required under NASD Rule 2330(f)(2).

FINRA is proposing to adopt NASD Rule 2330(f) as FINRA Rule 2150(c) in the Consolidated FINRA Rulebook, with only minor changes. Specifically, FINRA is proposing to delete the provision in NASD Rule 2330(f)(2) regarding the registration status under the Advisers Act of members and associated persons acting as investment advisers. This provision was intended to clarify the application of the rule to broker-dealers that were deemed not to be subject to the Advisers Act under Rule 202(a)(11)–1 of the Advisers Act.[7] Since Rule 202(a)(11)–1 has been vacated, the provision is no longer necessary.

FINRA is proposing to delete NYSE Rules 352(b), (c) and (d) because these provisions are substantially similar to proposed FINRA Rule 2150(c) or are

[4] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see* FINRA *Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[5] NASD Rules 2330(b) (General Provisions), 2330(c) (Authorization to Lend), 2330(d) (Segregation and Identification of Securities) and Interpretive Material 2330 (Segregation of Customers' Securities) set forth certain financial and operational requirements. These provisions would remain in the Transitional Rulebook to be addressed as part of a later phase of the rulebook consolidation process.

[6] NYSE Rules 352(e), 352(f) and 352(g) govern borrowing from or lending to customers. These provisions generally are equivalent to the provisions of NASD Rule 2370 (Borrowing From or Lending to Customers). NASD Rule 2370 and the corresponding NYSE provisions would remain in the Transitional Rulebook to be addressed as part of a later phase of the rulebook consolidation process.

[7] In 2005, the SEC adopted Advisers Act Rule 202(a)(11)–1, a principal purpose of which was to deem broker-dealers offering ''fee-based brokerage accounts'' as not subject to the Advisers Act. In March 2007, Rule 202(a)(11)–1 was vacated. *See Financial Planning Association* v. *SEC,* 482 F.3d 481 (D.C. Cir. 2007).

otherwise incorporated as part of the supplementary material to proposed FINRA Rule 2150, as noted below.

d. Proposed Supplementary Material

In addition, FINRA is proposing to add a ''Supplementary Material'' section to proposed FINRA Rule 2150 that would:

• Codify existing staff guidance clarifying that a ''guarantee'' extended to all holders of a particular security by an issuer as part of that security generally would not be subject to the prohibition against guarantees [8] and that a permissible sharing arrangement remains subject to other applicable FINRA rules; [9]

• Clarify that the rule does not preclude a member from determining on an after-the-fact basis, to reimburse a customer for transaction losses, provided however that the member shall comply with all reporting requirements that may be applicable to such payment; [10]

• Consistent with NYSE Rule 352(c), clarify that the rule does not preclude a member from correcting a *bona fide* error; and,

• Clarify that the required written authorization(s) shall be preserved for a period of at least six years after the date the account is closed, which is consistent with the retention period under the SEA for similar records.

FINRA intends to announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will further the purposes of the Act by protecting investors against potential misconduct.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2009–014 on the subject line.

Paper Comments:

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–014. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2009–014 and should be submitted on or before July 15, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14802 Filed 6–23–09; 8:45 am]

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[8] *See* SR–NASD–2002–180; *Notice to Members* 03–21 (April 2003). FINRA is proposing to make this clarification even though such arrangements do not implicate the express language of the rule, in light of member inquiries regarding such securities and existing staff guidance. *See* Securities Exchange Act Release No. 47354 (February 12, 2003), 68 FR 8053 (February 19, 2003) (Order Approving File No. SR–NASD–2002–180).

[9] *See id.*

[10] Associated persons would not similarly be permitted to reimburse their customers for losses under the rule given the concern that such payments may conceal individual misconduct.

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

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

ACTION: Notice to establish a system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974 entitled the ''National Highway Institute Web site (NHIW) and Course Management and Tracking System (CMTS)''. The system will contain information on customers and instructors who use or contribute services to the National Highway Institute. The NHIW does not contain any information about individuals, just course and session data that is stored in CMTS. Additional information on this system is described in the

Supplementary Information section of this notice.

DATES: *Effective Date:* August 3, 2009. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

FOR FURTHER INFORMATION CONTACT: Habib Azarsina, Departmental Privacy Officer, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE., Washington, DC 20003, 202–366–1965 (telephone), 202–366–7870 (fax), *habib.azarsina@dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

SYSTEM NUMBER:

DOT/FHWA 221.

SYSTEM NAME:

National Highway Institute Web site (NHIW) and Course Management and Tracking System (CMTS).

SECURITY CLASSIFICATION:

Sensitive, Unclassified.

SYSTEM LOCATION:

This system is located in the National Highway Institute (NHI), Federal Highway Administration, 4600 N. Fairfax Drive, Suite 800, Arlington, VA 22203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

CMTS contains information on customers and instructors who use or contribute services to the National Highway Institute. The NHIW does not contain any information about individuals, just course and session data that is stored in CMTS. When customers create accounts on NHIW to enroll in training, they are really creating an account in the User Profile and Access Control System (UPACS), and the information is stored in CMTS under the Customer module.

CATEGORIES OF RECORDS IN THE SYSTEM:

CMTS contains records related to the administration of the training. Personally identifiable information in CMTS consists of customer names, work address, e-mail address, and work telephone number and instructor names and e-mail addresses. The NHIW contains training course and session information stored in CMTS that does not pertain to individuals and is available for public viewing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59.

PURPOSES:

FHWA has been given the responsibility of enhancing the highway movement of people and goods, while also ensuring the safety of the traveling public, promoting the efficiency of the transportation system, and protecting the environment. One vital component involved in reaching those goals is providing training pertaining to highway activities, particularly in making sure that professionals and members of the public have access to the best, most accurate information. Towards this goal, NHI develops and implements applicable training programs. To manage this increasingly complex task and to make the training process more accessible and useful NHI uses NHIW and a back-end database (CMTS) to support this public site. The NHIW, *http://www.nhi.fhwa.dot.gov,* is available to the general public and displays NHI's training information. Through this site, members of the public can sign up for and take NHI-developed training, link to a separate government web site to pay for that training, schedule and participate in a Web conference, and download resources for developing courses. In addition, the NHIW offers the ability to purchase course materials. CMTS supports the NHIW by maintaining course development information, customer records, invoices, instructor records and contract data. There is a direct link between NHIW and CMTS.

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

The records are used to administer training and for program evaluation purposes. Only federal program staff and contractors directly involved in administering the program have access to the information stored in CMTS.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Records are stored in an electronic database and in paper files.

RETRIEVABILITY:

Records are retrieved by participant name, course number, instructor name, contract number, and invoice number.

SAFEGUARDS:

Access to records in the electronic database is limited to program staff and protected via password controls. Physical access to the server and paper files is limited to appropriate personnel through building key cards and room-access keypads. Other security measures include firewalls, routine scans and monitoring, back-up activities, and security background checks.

RETENTION AND DISPOSAL:

The records retention schedules for these systems are pending National Archives and Records Administration (NARA) approval. The proposed retention period for this system is for the information to be maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Director of Training, Federal Highway Administration, 4600 N. Fairfax Drive, Suite 800, Arlington, VA 22203.

NOTIFICATION PROCEDURE:

Individuals wishing to know if their records appear in this system may make a request in writing to the System Manager. The request must include the requester's name, mailing address, telephone number and/or e-mail address, a description and the location of the records requested, and verification of identity.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system should apply to the System Manager, following the same procedure as indicated under ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of information about them in this system should apply to the System Manager, following the same procedure as indicated under ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The customer records are obtained from forms that customers complete at training sessions, that are then entered directly in the system by program personnel or transactions (weekly patches) that occur via NHIW. Instructor records are obtained directly from the instructors. Data is entered directly in the system by program staff or by transactions (weekly patches) that occur via NHIW.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DATE OF UPDATE:

June 3, 2009.

Dated: June 18, 2009.

Habib Azarsina,

Departmental Privacy Officer, 202–366–1965.

[FR Doc. E9–14837 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–9X–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–2009–0052.

Applicant: Norfolk Southern Corporation, Mr. Donald D. Graab, Assistant Vice-President Mechanical, Mechanical Department, 1200 Peachtree Street, NE., Atlanta, Georgia 30309–3579.

The Norfolk Southern Corporation (NS) seeks relief from the requirements of the Rules, Standards, and Instructions, 49 CFR Part 236, §§ 236.586 and 236.110. NS seeks a waiver from compliance with § 236.586 Daily or after trip test, in its entirety for locomotives equipped with UltraCab equipment. NS seeks a waiver from that portion of § 236.110 that requires record-keeping and record retention for tests performed under § 236.586.

The reason given for the proposed changes is that UltraCab locomotive cab signal equipment is microprocessor-based, and it is universally recognized that this technology has provided vast breakthroughs in advanced train stop and train control equipment. These systems offer improvements far superior to their predecessors in performance, reliability, and safety. Equipment is now capable of checking itself several times a second and verifying that the system is functioning properly and that all external inputs are valid.

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–2009–0052) 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 17, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–14830 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Informational Filing

For informational purposes only, the Federal Railroad Administration (FRA) is providing notice that it has received an informational filing from the BNSF Railway Company (BNSF) to conduct testing of Configuration IV of BNSF's Electronic Train Management System (ETMS) submitted pursuant to Title 49 Code of Federal Regulations (CFR) 236.913. The informational filing is described below, including the submitting party and the requisite docket number where the informational filing and any related information may be found. The document is available for public inspection; however, FRA is not accepting public comment on the document.

BNSF Railway Company

[Docket Number FRA–2006–23687]

BNSF has submitted an informational filing to FRA to begin operational testing of ETMS Version IV on BNSF's Stampede Subdivision. This testing will allow BNSF to obtain the necessary assessments required to amend BNSF's currently approved Product Safety Plan (PSP) for ETMS Version I for a future submittal to FRA. In addition, this testing will allow BNSF to substantiate the ETMS technology on mountain grade territory with freight operations. The informational filing has been placed under Docket Number FRA–2006–23687 and is available for public inspection.

Interested parties are invited to review the informational filing and associated documents at the DOT Docket Management facility during regular business hours (9 a.m.–5 p.m.) at 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590. All documents in the public docket are also available for inspection and copying on the Internet at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications received into any of our dockets by name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.).

You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on June 17, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–14825 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

BNSF Railway Company

[Waiver Petition Docket Number FRA–2009–0048]

The BNSF Railway Company (BNSF) requests a waiver of compliance from the requirements of 49 CFR Part 240, Qualification and Certification of Locomotive Engineers, specifically, § 240.129. BNSF's specific request is for a waiver from the requirement that locomotive engineers have annual operational performance evaluations as provided under the procedures pursuant to Sections 240.129(b), (c), and (e).

Section 240.129(b) requires a railroad to ''have procedures for monitoring the operational performance of those it has determined as qualified as a locomotive engineer.'' Section 240.129(c) provides the requirements of the procedures referenced under (b), including that the engineer ''shall be annually monitored (check ride) by a Designated Supervisor of Locomotive Engineers'' and is either ''accompanied by the designated supervisor'' or ''has his or her train handling activities electronically recorded.'' BNSF has a program to comply with these requirements. Section 240.129(e) requires the railroad to have an operational testing and monitoring program in place, and to perform at least one unannounced test each calendar year. This program must be designed to monitor compliance with railroad operating rules and other directives, and to examine and test such compliance.

BNSF is currently working to implement an automatic control system that will allow the engineer certification database to connect directly to the crew database. By connecting these systems, BNSF will then be able to constantly validate information to safeguard against engineers falling outside of the provisions of Section 240.129. Once this system is fully functioning, individuals who are not current on the check-ride requirement or operational testing will automatically be prevented from operating a locomotive until such time as they meet the requirements of this rule. BNSF plans to have this system in place and fully functional by the end of August 2009. As a result, the relief granted under this waiver request will neither lead to a degradation of safety nor to any conflict with the intent of the rule.

BNSF has several employees certified under 49 CFR Part 240 for service who are not currently performing the duties that require this certification. Some of these individuals have bid on and taken positions in other service, while others have been furloughed. As a result, these individuals are not in a position to operate locomotives as an engineer. BNSF requests relief from Section 240.129 to avoid having to perform operational performance evaluations on individuals who are currently out of locomotive engineer service. Waiving performance of these evaluations on individuals not currently active as locomotive engineers is consistent with the general application of Part 240, which applies to ''any person who operates locomotives.''

These individuals are not operating locomotives, nor will they be allowed to operate locomotives under BNSF's control system. Performance of the operational evaluation on individuals not currently operating locomotives causes safety concerns because it requires calling a person in for the sole purpose of an evaluation ride and also because it would lead to those individuals achieving technical compliance with the rule only to go back to prolonged service in areas other than operation of locomotives. BNSF's proposal provides the operational evaluation at a time prior to the full operation of a locomotive, in compliance with the rules, but also at a time that is contemporary to the return to the active operation of locomotives.

BNSF requests this waiver as a method of ensuring that active locomotive engineers receive timely and appropriate training and monitoring as required for compliance with the rule. Through granting this waiver, BNSF believes there will be no negative impact on safety. As described, BNSF will not permit any locomotive engineer to operate a locomotive without being in full compliance with Part 240, including Section 129, of which relief is requested. BNSF believes this process will promote enhanced safety by providing for the operational performance evaluations to be done as these engineers return to active engine service such that safe operation is fresh in their minds upon their return.

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–2009–0048) 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 17, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–14832 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID: OTS–2009–0013]

Open Meeting of the OTS Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of Thrift Supervision.

ACTION: Notice of meeting.

SUMMARY: The OTS Minority Depository Institutions Advisory Committee (MDIAC) will convene a meeting on Tuesday, July 7, 2009, at the Office of Thrift Supervision at 10 a.m. Central Time. The meeting will be open to the public.

DATES: The meeting will be held on Tuesday, July 7, 2009, at 10 a.m. Central Time.

ADDRESSES: The meeting will be held at the Office of Thrift Supervision, 1 South Wacker Drive, Suite 2000, Chicago, IL. The public is invited to make a three minute oral statement at the MDIAC meeting, or submit written statements to the MDIAC by any one of the following methods:

- *E-mail address: Commaffairs@ots.treas.gov;* or
- *Mail:* To Cassandra McConnell, Designated Federal Official, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, in triplicate.

The agency must receive written statements no later than June 30, 2009.

FOR FURTHER INFORMATION CONTACT: Cassandra McConnell, Designated Federal Official, (202) 906–5750, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: By this notice, the Office of Thrift Supervision is announcing that the OTS Minority Depository Institutions Advisory Committee will convene a meeting on Tuesday, July 7, 2009, at the Office of Thrift Supervision, 1 South Wacker Drive, Suite 2000, Chicago, IL, beginning at 10 a.m. Central Time. The meeting will be open to the public. Because the meeting will be held in a secured facility with limited space, members of the public who plan to attend the meeting, and members of the public who require auxiliary aid, must contact the Office of Community Affairs at 202–906–7891 by 5 p.m. Eastern Time on Tuesday, June 30, 2009, to inform OTS of their desire to attend the meeting and to provide the information that will be required to facilitate entry into the building. To enter the building, attendees should provide a government issued ID (*e.g.,* driver's license, voter registration card, etc.) with their full name, date of birth, and address. The purpose of the meeting is to advise OTS on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, Title III, 103 Stat. 353, 12 U.S.C.A. 1463 note. The goals of section 308 are to preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions. The meeting agenda will be posted to the Office of Thrift Supervision Web site at *http://www.ots.gov.*

Dated: June 17, 2009.

By the Office of Thrift Supervision.

Cassandra E. McConnell,

Designated Federal Official, OTS Minority Depository Institutions Advisory Committee.

[FR Doc. E9–14767 Filed 6–23–09; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of four individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (''SDN List'') of the individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on June 10, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2420.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the ''Order''). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On June 10, 2009, the Director of OFAC removed from the SDN List the four individuals listed below, whose property and interests in property were blocked pursuant to the Order.

The listing of the unblocked individuals follows:

RAMIREZ DE RAMOS, Amparo, c/o INVERSIETE S.A., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES ATLAS LTDA., Cali, Colombia; DOB 1

Feb 1947; Cedula No. 38997548 (COLOMBIA) (INDIVIDUAL) [SDNT].

SANCLEMENTE BEDOYA, Flor de Maria, c/o COLIMEX LTDA., Cali, Colombia; c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o COMERCIALIZADORA INTERTEL S.A., Cali, Colombia; c/o FUNDACION VIVIR MEJOR, Cali, Colombia; c/o FUNDASER, Cali, Colombia; DOB 4 Sep 1964; Cedula No. 31931887 (Colombia); N.I.E. X2303467–V (Spain); Passport 31931887 (COLOMBIA) (INDIVIDUAL) [SDNT].

FOMEQUE BLANCO, Amparo, Mz. 21 Casa 5 Barrio San Fernando, Pereira, Colombia; c/o INDUSTRIA DE PESCA SOBRE EL PACIFICO S.A., Buenaventura, Colombia; Cedula No. 31206092 (COLOMBIA) (INDIVIDUAL) [SDNT].

PATIÑO FOMEQUE, Sonia Daysi, (a.k.a. PATIÑO FOMEQUE, Sonia Daicy), Calle 9 Oeste No. 25–106, Cali, Colombia; c/o INDUSTRIA DE PESCA SOBRE EL PACIFICO S.A., Buenaventura, Colombia; Cedula No. 66920533 (COLOMBIA) (INDIVIDUAL) [SDNT].

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–14838 Filed 6–23–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Rural Health Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Rural Health Advisory Committee will conduct a telephone conference call meeting from 2 p.m. to 3:30 p.m. on Thursday, July 16, 2009, at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The toll free number for the meeting is 1–866–802–4355, and the access code is 1372672. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on health care issues affecting enrolled Veterans residing in rural areas. The Committee examines programs and policies that impact the provision of VA health care to enrolled Veterans residing in rural areas.

The Committee will meet to discuss the current status of the Office of Rural Health operations, progress towards completion of the Committee's first report to the Secretary and upcoming meeting dates.

A 15 minute period will be reserved at 3:15 p.m. for public comments. Members of the public may also submit a one (1) page summary of their comments for inclusion in the official meeting record. For additional information, please contact Kara Hawthorne, Designated Federal Officer, at *rural.health.inquiry@va.gov* or (202) 461–7100.

Dated: June 18, 2009.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E9–14824 Filed 6–23–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
June 24, 2009

Part II

The President

Notice of June 22, 2009—Continuation of the National Emergency With Respect to the Western Balkans

Federal Register
Vol. 74, No. 120
Wednesday, June 24, 2009

Presidential Documents

Title 3—

The President

Notice of June 22, 2009

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, the President declared a national emergency with respect to the Western Balkans, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The President subsequently amended that order in Executive Order 13304 of May 28, 2003.

Because the actions of persons threatening the peace and international stabilization efforts in the Western Balkans continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2009. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 22, 2009.

[FR Doc. E9–15103
Filed 6–23–09; 11:15 am]
Billing code 3195–W9–P

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Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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H.R. 1256/P.L. 111–31
To protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes. (June 22, 2009; 123 Stat. 1776)

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