



Federal Register

7-1-09

Vol. 74 No. 125

Wednesday

July 1, 2009

Pages 31345-31566



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see www.federalregister.gov.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the Federal Register shall be judicially noticed.

The Federal Register is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the Federal Register www.gpoaccess.gov/nara, available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the Federal Register is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at gpoaccess@gpo.gov. The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the Federal Register paper edition is \$749 plus postage, or \$808, plus postage, for a combined Federal Register, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the Federal Register including the Federal Register Index and LSA is \$165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily Federal Register, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see bookstore.gpo.gov.

There are no restrictions on the republication of material appearing in the Federal Register.

How To Cite This Publication: Use the volume number and the page number. Example: 74 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche 202-512-1800
Assistance with public subscriptions 202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche 202-512-1800
Assistance with public single copies 1-866-512-1800
(Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Paper or fiche 202-741-6005
Assistance with Federal agency subscriptions 202-741-6005

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

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

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

RESERVATIONS: (202) 741-6008



Contents

Federal Register

Vol. 74, No. 125

Wednesday, July 1, 2009

Agriculture Department

See Forest Service
See Rural Business–Cooperative Service
See Rural Utilities Service

Architectural and Transportation Barriers Compliance Board

NOTICES

Meetings:
Planning and Evaluation Committee; Technical Programs Committee; Budget Committee, et al., 31404

Census Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31405–31406

Centers for Disease Control and Prevention

NOTICES

Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 31452

Civil Rights Commission

NOTICES

Meetings; Sunshine Act, 31404

Coast Guard

RULES

Anchorage Regulations:
Port of New York, 31354–31356
Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability – Vessels and Deepwater Ports, 31357–31369
Regulated Navigation Area:
Herbert C. Bonner Bridge, Oregon Inlet, NC, 31369–31372
Safety Zones:
Summer 2009 Fireworks, Coastal Massachusetts, 31351–31354

NOTICES

Meetings:
Merchant Marine Personnel Advisory Committee, 31461–31462

Commerce Department

See Census Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration
See Patent and Trademark Office

Comptroller of the Currency

RULES

Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies, 31484–31528

PROPOSED RULES

Guidelines for Furnishers of Information to Consumer Reporting Agencies, 31529–31533

Council on Environmental Quality

NOTICES

Initiation of Revision and Request for Suggested Changes: Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, 31415

Defense Acquisition Regulations System

NOTICES

Commercial Item Handbook, 31416

Defense Department

See Defense Acquisition Regulations System

RULES

Federal Acquisition Regulation (FAR):
FAR Case 2006–022, Contractor Performance Information, 31557–31561
FAR Case 2008–009, Prohibition on Contracting with Inverted Domestic Corporations, 31561–31564
FAR Case 2008–028, Role of Interagency Committee on Debarment and Suspension, 31564–31565
Federal Acquisition Circular 200534 — Introduction, 31556
Small Entity Compliance Guide, 31565–31566

NOTICES

Meetings:
Defense Business Board, 31415–31416

Education Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31416–31417
Asian American and Native American Pacific Islander-Serving Institutions Program, 31417
Erma Byrd Scholarship Program, 31418–31420

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Finding of No Significant Impact:
Disposition of DOE Excess Depleted Uranium, Natural Uranium, and Low-Enriched Uranium, 31420–31424

Environmental Protection Agency

RULES

New York:
Final Authorization of State Hazardous Waste Management Program Revision, 31380–31385

PROPOSED RULES

New York:
Final Authorization of State Hazardous Waste Management Program Revisions, 31386–31387

NOTICES

Final NPDES General Permits:
Federal Aquaculture Facilities and Aquaculture Facilities located in Indian Country within the Boundaries of the State of Washington, 31425
Pesticide Product Registration; Conditional Approval, 31426
Proposed Stipulated Injunction Involving Pesticides and Eleven Species Listed as Threatened or Endangered, etc.; Availability, 31427–31428

Requests for Amendments to Delete Uses in a Pesticide Registration:
Sodium Dimethyldithiocarbamate, 31428–31430

Environmental Quality Council

See Council on Environmental Quality

Executive Office of the President

See Council on Environmental Quality

Federal Aviation Administration

RULES

Airworthiness Directives:

General Electric Company (GE) CF6–80C2B5F Turbofan Engines, 31350–31351

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31478–31479

Waiver of Aeronautical Land-Use Assurance, Rickenbacker International Airport:
Columbus, OH, 31481

Federal Deposit Insurance Corporation

RULES

Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies, 31484–31528

PROPOSED RULES

Guidelines for Furnishers of Information to Consumer Reporting Agencies, 31529–31533

Federal Election Commission

RULES

Civil Monetary Penalties Inflation Adjustments, 31345–31349

NOTICES

Website and Internet Communications Improvement Initiative, 31430–31441

Federal Energy Regulatory Commission

NOTICES

Complaints:

BP Canada Energy Marketing Corp. v. Kinder Morgan Cochin LLC, 31424

Filings:

South Carolina Electric & Gas Co., 31425

Federal Maritime Commission

NOTICES

Agreements Filed, 31442

Federal Reserve System

RULES

Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies, 31484–31528

PROPOSED RULES

Guidelines for Furnishers of Information to Consumer Reporting Agencies, 31529–31533

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31441

Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 31441–31442

Federal Retirement Thrift Investment Board

RULES

Employee Contribution Elections and Contribution Allocations, 31345

Federal Trade Commission

RULES

Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies, 31484–31528

PROPOSED RULES

Guidelines for Furnishers of Information to Consumer Reporting Agencies, 31529–31533

NOTICES

Constellation Brands, Inc.; Analysis of Proposed Consent Order to Aid Public Comment, 31442–31443

Fiscal Service

NOTICES

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, 31536–31554

Fish and Wildlife Service

PROPOSED RULES

Endangered and Threatened Wildlife and Plants:
Northern Leopard Frog (*Lithobates [=Rana] pipiens*), 31389–31401

NOTICES

Permit Applications:

Endangered and Threatened Wildlife and Plants, 31464

Food and Drug Administration

NOTICES

Regulation of Tobacco Products; Request for Comments, 31457–31458

Forest Service

NOTICES

Meetings:

Lake Tahoe Basin Federal Advisory Committee, 31403–31404

General Services Administration

RULES

Federal Acquisition Regulation (FAR):

FAR Case 2006–022, Contractor Performance Information, 31557–31561

FAR Case 2008–009, Prohibition on Contracting with Inverted Domestic Corporations, 31561–31564

FAR Case 2008–028, Role of Interagency Committee on Debarment and Suspension, 31564–31565

Federal Acquisition Circular 200534 — Introduction, 31556

Small Entity Compliance Guide, 31565–31566

Health and Human Services Department

See Centers for Disease Control and Prevention

See Food and Drug Administration

See National Institutes of Health

NOTICES

Meetings:

HIT Policy Committee Advisory Meeting, 31444–31445

HIT Policy Committee's Certification/Adoption Workgroup, 31444

HIT Standards Committee Advisory Meeting, 31443–31444

Homeland Security Department

See Coast Guard

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31458–31461

Housing and Urban Development Department**NOTICES**

- Funding Availability (NOFA) for Fiscal Year (FY) 2009 Tribal Colleges and Universities Program, 31462
- Funding Availability (NOFA) for Fiscal Year (FY) 2009: Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program, 31463
- Historically Black Colleges and Universities (HBCU) Program, 31462
- Section 8 Contract Renewal Policy—Guidance for the Renewal of Project-Based Section 8 Contracts, 31463–31464

Interior Department

- See* Fish and Wildlife Service
- See* Land Management Bureau

International Trade Administration**NOTICES**

- Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 31406–31408
- Antidumping or Countervailing: Finding, or Suspended Investigation; Advance Notification of Sunset Reviews, 31408–31409
- Antidumping: Certain Color Television Receivers from the People's Republic of China, 31409
- Initiation of Five-Year (Sunset) Review, 31412–31413

Justice Department

- See* Justice Programs Office
- See* National Institute of Corrections

NOTICES

- Consent Decrees: United States and The Commonwealth of Pennsylvania Department of Environmental Protection v. George R. Rubright and Mary Lou Rubright, 31465
- United States of America et al. v. Saturn Chemicals, Inc., et al., 31465
- Settlement Agreements Under the Resource Conservation and Recovery Act, 31465–31466

Justice Programs Office**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31466–31467

Land Management Bureau**NOTICES**

- Meetings: Receive for Comments on an Environmental Analysis, Finding of No Significant Impact, Maximum Economic Recovery Report, and Fair Market Value for Coal Lease Application COC-70615, 31464

Maritime Administration**NOTICES**

- Gulf Landing LLC Liquefied Natural Gas Deepwater Port License Surrender, 31479
- Reports, Forms and Recordkeeping Requirements, 31479–31480
- Requested Administrative Waiver of the Coastwise Trade Laws, 31480–31481

National Aeronautics and Space Administration**RULES**

- Federal Acquisition Regulation (FAR): FAR Case 2006–022, Contractor Performance Information, 31557–31561
- FAR Case 2008–009, Prohibition on Contracting with Inverted Domestic Corporations, 31561–31564
- FAR Case 2008–028, Role of Interagency Committee on Debarment and Suspension, 31564–31565
- Federal Acquisition Circular 200534 — Introduction, 31556
- Small Entity Compliance Guide, 31565–31566

National Credit Union Administration**RULES**

- Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies, 31484–31528

PROPOSED RULES

- Guidelines for Furnishers of Information to Consumer Reporting Agencies, 31529–31533

National Highway Traffic Safety Administration**PROPOSED RULES**

- Vehicle Safety Rulemaking and Research Priority Plan (2009–2011), 31387–31389

National Institute of Corrections**NOTICES**

- Solicitation for a Cooperative Agreement – Direct Supervision: Curriculum Development, 31467–31469

National Institutes of Health**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31445–31446
- Government-Owned Inventions; Availability for Licensing, 31446–31450
- Meetings: Center for Scientific Review, 31450, 31452–31454, 31456–31457
- Eunice Kennedy Shriver National Institute of Child Health & Human Development, 31456
- National Eye Institute, 31450
- National Human Genome Research Institute, 31452, 31455–31456
- National Institute of Allergy and Infectious Diseases, 31451
- National Institute of Dental and Craniofacial Research, 31454–31455
- National Institute of Diabetes and Digestive and Kidney Diseases, 31450–31452
- National Institute of Environmental Health Sciences, 31455
- National Institute of Mental Health, 31453, 31455
- National Institute of Neurological Disorders and Stroke, 31456
- Prospective Grant of Exclusive License: Pain Control by Selective Ablation of Pain-Sensing Neurons by Administration of Resiniferatoxin, 31457

National Oceanic and Atmospheric Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31404–31405

Environmental Impact Statements; Intent:

Sea Turtle Conservation and Recovery in Relation to the Atlantic Ocean and Gulf of Mexico Trawl Fisheries, etc., 31411–31412

Incidental Taking of Marine Mammals:

Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico, 31412

Marine Mammals; File No. 774 – 1847, 31413–31414

National Estuarine Research Reserve System, 31414–31415

National Telecommunications and Information Administration

NOTICES

Broadband Technology Opportunities Program, 31410–31411

Nuclear Regulatory Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31469–31470

Availability of the Final Interim Staff Guidance DC/COL–ISG–007, etc., 31470

Patent and Trademark Office

RULES

July 2009 Revision of Patent Cooperation Treaty Procedures, 31372–31373

Personnel Management Office

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31470–31471

Postal Regulatory Commission

RULES

New Postal Product, 31374–31380

PROPOSED RULES

Periodic Reporting Rules, 31386

Public Debt Bureau

See Fiscal Service

Rural Business–Cooperative Service

NOTICES

Announcement of Value-Added Producer Grant Application Deadlines, 31402

Rural Utilities Service

NOTICES

Limited Waiver of Section 1605 (Buy American Requirement) of the American Recover and Reinvestment Act of 2009 (ARRA) for the Broadband Initiatives Program, 31402–31403

Securities and Exchange Commission

NOTICES

Self-Regulatory Organizations; Proposed Rule Changes: Financial Industry Regulatory Authority, Inc., 31471–31472

Small Business Administration

NOTICES

Disaster Declarations: Kentucky, 31471

State Department

NOTICES

Bureau of Political–Military Affairs:

Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses, 31472–31477

Culturally Significant Objects Imported for Exhibition

Determinations:

New Amsterdam; The Island at the Center of the World, 31477

Meetings:

Advisory Committee on International Economic Policy, 31477–31478

Thrift Supervision Office

RULES

Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies, 31484–31528

PROPOSED RULES

Guidelines for Furnishers of Information to Consumer Reporting Agencies, 31529–31533

Transportation Department

See Federal Aviation Administration

See Maritime Administration

See National Highway Traffic Safety Administration

Treasury Department

See Comptroller of the Currency

See Fiscal Service

See Thrift Supervision Office

Veterans Affairs Department

RULES

Civilian Health and Medical Program of the Department of Veterans Affairs:

Prauthorization of Durable Medical Equipment, 31373–31374

Separate Parts In This Issue

Part II

Federal Deposit Insurance Corporation, 31484–31533

Federal Reserve System, 31484–31533

Federal Trade Commission, 31484–31533

National Credit Union Administration, 31484–31533

Treasury Department, Comptroller of the Currency, 31484–31533

Treasury Department, Thrift Supervision Office, 31484–31533

Part III

Treasury Department, Fiscal Service, 31536–31554

Part IV

Defense Department, 31556–31566

General Services Administration, 31556–31566

National Aeronautics and Space Administration, 31556–31566

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents
LISTSERV electronic mailing list, go to [http://
listserv.access.gpo.gov](http://listserv.access.gpo.gov) and select Online mailing list
archives, FEDREGTOC-L, Join or leave the list (or change
settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR

160031345

11 CFR

11131345

12 CFR

4131484

22231484

33431484

57131484

71731484

Proposed Rules:

4131529

22231529

33431529

57131529

71731529

14 CFR

3931350

16 CFR

66031484

Proposed Rules:

66031529

33 CFR

10031351

11031354

13831357

165 (2 documents)31351,
31369

37 CFR

131372

38 CFR

1731373

39 CFR

302031374

Proposed Rules:

305031386

40 CFR

27131380

Proposed Rules:

27131386

48 CFR

Chapter1 (2 documents)31556, 31565

231557

431561

831557

9 (3 documents)31557,
31561, 31564

1331557

1731557

3631557

4231557

5231561

5331557

49 CFR**Proposed Rules:**

57131387

50 CFR**Proposed Rules:**

1731389

Rules and Regulations

Federal Register

Vol. 74, No. 125

Wednesday, July 1, 2009

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

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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1600

Employee Contribution Elections and Contribution Allocations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) is announcing the effective date of its regulation published on June 19, 2009 (74 FR 29111) pertaining to the timing of agency contributions.

DATES: *Effective Date:* The Agency's interim final rule published on June 19, 2009 (74 FR 29111) took effect on June 22, 2009 when President Obama signed HR 1256 (Pub. L. 111-31) which contained the Thrift Savings Plan Enhancement Act of 2009 (Act).

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at (202) 942-1645.

SUPPLEMENTARY INFORMATION: The Act provides that Agency Automatic (1%) Contributions and Agency Matching Contributions shall commence immediately. The regulatory amendment is necessary because FRTIB regulations follow current law, which provides that Agency Automatic (1%) Contributions and Agency Matching Contributions shall not commence until the equivalent of the second open season that begins after the employee commenced employment. The FRTIB is setting a August 1, 2009 effective date for this regulation to allow employing agencies sufficient time to make the necessary computer programming changes to implement it. The regulation took effect on June 22, 2009, and employing agencies must implement

this change as soon as practicable but no later than the first pay period in August.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. E9-15536 Filed 6-30-09; 8:45 am]

BILLING CODE 6760-01-P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2009-09]

Civil Monetary Penalties Inflation Adjustments

AGENCY: Federal Election Commission.

ACTION: Final rules.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the Federal Election Commission is adopting final rules to apply inflation adjustments to certain civil monetary penalties under the Federal Election Campaign Act of 1971, as amended ("FECA"), the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil penalties being adjusted are for certain violations of these statutes that are not knowing and willful, involving contributions and expenditures; knowing and willful violations of the prohibition against the making of a contribution in the name of another; knowing and willful violations of the confidentiality provisions of FECA; certain penalties for late filed or non-filed reports under the administrative fines program; and failure to file timely 48-hour notices. The adjusted civil monetary penalties are calculated according to the formula set forth in the law and will be effective for violations occurring on or after the effective date of these rules. Further information is provided in the supplementary information that follows.

DATES: Effective on July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, or Ms. Jessica Selinkoff, Attorneys, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation

Adjustment Act of 1990, as amended,¹ (the "Inflation Adjustment Act") requires Federal agencies to adjust for inflation the civil monetary penalties within their jurisdiction at least once every four years according to detailed formulae. A civil monetary penalty ("civil penalty") is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is for a specific amount, or has a maximum amount, as provided by Federal law, and is assessed or enforced by an agency in an administrative proceeding or by a Federal court pursuant to Federal law.² Further, the Inflation Adjustment Act contains a 10% penalty cap on the first adjustment of any civil penalty. That is, the first adjustment made to the civil penalty may not exceed 10% of the starting civil penalty.³ Under the Federal Election Campaign Act of 1971 ("FECA"), as amended, 2 U.S.C. 431 *et seq.*, the Federal Election Commission ("Commission") has jurisdiction over several civil penalties for respondents who violate FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* ("chapters 95 and 96 of Title 26"). These rules fulfill the Commission's non-discretionary obligation under the Inflation Adjustment Act to adjust for inflation, according to the prescribed formula, the civil monetary penalties ("civil penalties") within its jurisdiction.

Immediate Effectiveness of Final Rule

The Commission is required by statute to adjust the civil penalties under its jurisdiction by a Cost of Living Adjustment ("COLA") formula. This application of the COLA does not involve Commission discretion or any policy judgments. Thus, the Commission finds that the "good cause" exception to the notice and comment requirement in section 553 of the Administrative Procedures Act applies to these rules because notice and comment are unnecessary. 5 U.S.C. 553(b)(B) and (d)(3).

For the same reasons, these rules do not need to be submitted to the Speaker

¹ 28 U.S.C. 2461 note, as amended by Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-73, sec. 31001(s)(1) (1996); Public Law 105-362, 112 Stat. 3293 (1998).

² 28 U.S.C. 2461 note (3)(2).

³ 28 U.S.C. 2461 note (7).

of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.*, and these rules are effective upon publication. 5 U.S.C. 808(2). Accordingly these amendments are effective on July 1, 2009. The new civil penalties are applicable only to violations that occur after this effective date.

Explanation and Justification

Under the Inflation Adjustment Act, the Commission must adjust civil penalties by a COLA defined as the percentage by which the U.S. Department of Labor's Consumer Price Index for all urban consumers ("CPI") for June of the year preceding the adjustment exceeds the CPI for June of the year in which each civil penalty was last set or adjusted.⁴ The amount of the resulting increase is then subject to rounding rules based on the size of the civil penalty.⁵ The Inflation Adjustment Act imposes a 10% cap on the first adjustment under its rules, but no cap on subsequent adjustments.

The Commission has previously applied the Inflation Adjustment Act formulae to its civil penalties in 1997,

2002, and 2005.⁶ As explained in more detail below, the Commission has determined that the Inflation Adjustment Act now requires the Commission to adjust all civil penalties in 11 CFR 111.24 and some civil penalties in 11 CFR 111.43. The civil penalties in 11 CFR 111.44 will not change because of the rounding rules.

1. 111.24—Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.)

FECA provides for civil penalties for any person who violates any portion of FECA or chapters 95 and 96 of Title 26. FECA's civil penalties, found at 2 U.S.C. 437(g)(a)(5), (6), and (12), are organized into two tiers: One tier of civil penalties for violations of FECA or chapters 95 and 96 of Title 26, and a higher tier of civil penalties for "knowing and willful" violations of FECA or chapters 95 and 96 of Title 26. Commission regulations in section 111.24 set forth each civil penalty established by section 437g(a)(5), (6), and (12), as adjusted pursuant to the Inflation Adjustment Act.

Example

The following is a detailed example of the application of the Inflation

Adjustment Act formulae to FECA civil penalties. The \$5,000 civil penalties provided for in 2 U.S.C. 437g(a)(5)(A), (6)(A), and (6)(B) are implemented by the regulations at 11 CFR 111.24(a)(1) at their 2005 level of \$6,500. *See* 2005 Adjustment, 70 FR at 34634; 1997 Adjustment, 62 FR at 11316. To determine the 2009 adjustment, the CPI for June 2008 (218.815) is divided by the CPI for June 2005, the year the civil penalty was last adjusted (194.5), for a COLA of 1.125. Next, the raw inflation adjustment is determined by multiplying the present civil penalty (\$6,500) by the COLA increase (0.125) for a raw increase of \$812.50. The result is rounded to \$1,000. Finally, the rounded increase is added to the civil penalty, for a new section 111.24(a)(1) civil penalty of \$7,500.

Using the same Inflation Adjustment Act formulae, the Commission must also adjust other civil penalties in 11 CFR 111.24. Since each of these civil penalties has been previously adjusted, the 10% cap for first time adjustments does not apply to any of them. The complete list of all civil penalty adjustments in section 111.24 is as follows:

Section	Previous civil penalty	Last adjusted	COLA increase	Raw increase	Rounded to	New civil penalty
11 CFR 111.24(a)(1)	\$6,500	2005	0.125 (218.815/194.5)	\$812.50	\$1,000	\$7,500
11 CFR 111.24(a)(2)(i)	11,000	1997	0.365 (218.815/160.3)	4,015	5,000	16,000
11 CFR 111.24(a)(2)(ii)	55,000	2005	0.125 (218.815/194.5)	6,875	5,000	60,000
11 CFR 111.24(b)	2,200	1997	0.365 (218.815/160.3)	803	1,000	3,200
11 CFR 111.24(b)	6,500	2005	0.125 (218.815/194.5)	812.50	1,000	7,500

Note that the civil penalties in 11 CFR 111.24(a)(2)(i) and (b) have not been adjusted since 1997 because application of the rounding rules resulted in no change when adjustments were examined in 2002 and 2005.

2. 11 CFR 111.43—Schedule of Penalties

FECA permits the Commission to assess civil penalties for violations of the reporting requirements of 2 U.S.C. 434(a) in accordance with schedules of penalties established and published by the Commission. 2 U.S.C. 437g(a)(4)(C). Each schedule contains two columns, one for penalties for late-filed reports and one for penalties for non-filed

reports. Reports are considered to be late-filed if they are filed after their due date under 11 CFR 104.5 but before a date certain which is determined by whether the reports are election-sensitive or not.⁷ Reports are considered not filed if they either are filed after that date certain or are not filed at all. *See* 11 CFR 111.43(e).

The Commission first promulgated two schedules of penalties for late filing violations in 2000 in 11 CFR 111.43(a) and (b), for non-election-sensitive reports and election-sensitive reports, respectively. Explanation and Justification for Final Rules on Administrative Fines, 65 FR 31787 (May

19, 2000). The penalty calculations were based on the "level of activity," as defined in the 2000 regulations at 11 CFR 111.43(d), reported by the late-filing committee. Additionally, the Commission promulgated a civil penalty of \$5,500 at 11 CFR 111.43(c) for situations in which a committee fails to file a report and there is no "estimated level of activity," on which the Commission can base a civil penalty thereby making it impossible for the Commission to calculate the level of activity.

In 2003, the Commission reevaluated the administrative fines program and decided to reduce the civil penalties in

⁴ 28 U.S.C. 2461 note (5)(b).

⁵ 28 U.S.C. 2461 note (5)(a). The rounding rules applicable to the Commission's civil penalties require that if the existing penalty is less than or equal to \$100, the increase is rounded to the nearest \$10; if the existing penalty is greater than \$100 but less than or equal to \$1,000, the increase is rounded to the nearest \$100; if the existing penalty is greater than \$1,000 but less than or equal to \$10,000, the increase is rounded to the nearest \$1,000; and if the

existing penalty is greater than \$10,000 but less than or equal to \$100,000, the increase is rounded to the nearest \$5,000.

⁶ *See* Explanation and Justification for Final Rules on Inflation Adjustments for Civil Monetary Penalties, 70 FR 34633 (June 15, 2005) ("2005 Adjustment"); Explanation and Justification for Final Rules on Adjustments to Civil Monetary Penalty Amounts, 62 FR 11316 (Mar. 12, 1997) ("1997 Adjustment"). In January 2002, the rounding

rules resulted in no adjustments. Agenda Doc. 02-06 (Jan. 17, 2002).

⁷ Election-sensitive reports are those due just before an election. *See* 11 CFR 111.43(d)(1). The dissemination of information in these reports has the most meaningful impact because they are filed in proximity to an election. Accordingly, the schedule of penalties imposes a higher civil penalty for these reports than for all other reports, which are non-election-sensitive.

section 111.43(a) and (b) applicable to reports containing under \$50,000 in activity. It also repromulgated the remaining civil penalties. *See* Explanation and Justification for Final Rules on Administrative Fines, 68 FR 12572 (Mar. 17, 2003) (“2003 Rules”). Accordingly, the civil penalties for reports due on or after April 16, 2003 were set forth in new schedules at 11 CFR 111.43(a)(2) (non-election-sensitive) and 11 CFR 111.43(b)(2) (election-sensitive). The penalty schedules for previous reports were located in 11 CFR 111.43(a)(1) (non-election-sensitive) and 111.43(b)(1) (election-sensitive). The Commission also revised its definitions for “level of activity” and “estimated level of activity” for reports due on or after April 16, 2003.

The Commission has now determined that there is no need to retain the pre-April 2003 schedules at 11 CFR 111.43(a)(1) and (b)(1). Because the statute of limitations for enforcement of civil fines and penalties is five years from the date when the claim first accrued, a proceeding to enforce a civil penalty for a report due before April 16, 2003 would need to have been commenced before April 16, 2008. *See* 28 U.S.C. 2462. Accordingly, the Commission is removing paragraphs (a)(1) and (b)(1) from 11 CFR 111.43, including both the old schedules and the definitions for “level of activity” and “estimated level of activity” applicable to those schedules. Former 11 CFR 111.43(a)(2) and 11 CFR 111.43(b)(2) are being renumbered as 11 CFR 111.43(a) and 111.43(b), respectively. Additionally, because the removal of the old schedules at 11 CFR 111.43(a)(1) and (b)(1) obviates the need to distinguish between different definitions of “level of activity” and “estimated level of activity” for time periods before or after the 2003 Rules, the Commission is also moving, but not changing the substance of, those definitions from section 111.43(a)(2) and (b)(2) to the general definition section at 11 CFR 111.43(d). Finally, the Commission is numbering each of the definitions in section 111.43(d) for clarity.

In addition to these technical changes, the Commission must adjust the civil penalties schedules in section 111.43(a) and (b) pursuant to the Inflation Adjustment Act. These civil penalties schedules were set when the Commission repromulgated them in the 2003 rulemaking. In 2005, the Commission applied the Inflation Adjustment Act formulae to the civil penalties in section 111.43. Because of the rounding rules, however, none of

the penalties was adjusted. *See* 2005 Adjustment, 70 FR at 34635. Accordingly, this is the first adjustment of these civil penalties under the Inflation Adjustment Act and the 10% cap applies to any adjustments made.

To make the adjustments, the Inflation Adjustment Act formula is applied to each civil penalty in the schedules to determine what, if any, adjustment must be made. First, the CPI for 2008 is divided by the CPI for June of 2003 (218.815/183.7) to determine the applicable COLA of 0.191. Then, each civil penalty is multiplied by the COLA to determine the amount of the unrounded raw increase. Next, the statutory rounding formula is applied to that raw increase amount. The resulting rounded increase is then added to the current civil penalty to determine the new raw civil penalty. Finally, the statutory 10% penalty cap is applied as necessary. Accordingly, if the new raw civil penalty is larger than 110% of the current civil penalty, the raw penalty is adjusted downward to conform to that penalty cap. The actual adjustment to each civil penalty is shown in the schedules in the rule text, below.

The Commission must also adjust the \$5,500 civil penalty provided for in 2000 in 11 CFR 111.43(c), and repromulgated in 2003, which has not been adjusted pursuant to the Inflation Adjustment Act. To determine this year's adjustment, the CPI for June 2008 is divided by the CPI for June 2003 (218.815/183.7) for a COLA increase of 0.191. Next the \$5,500 is multiplied by the COLA for a raw increase of \$1,050.50, which is then rounded to \$1,000. Again, this first adjustment pursuant to the Inflation Adjustment Act is capped at 10 percent of the original penalty (\$5,500), for a new section 111.43(c) civil penalty of \$6,050.

3. 11 CFR 111.44—Schedule of Penalties for 48-Hour Notices

Principal campaign committees are required to report, within 48 hours of receipt, any contributions of \$1,000 or more that are received after the 20th day, but more than 48 hours before any election. 2 U.S.C. 434(a)(6). FECA permits the Commission to assess civil penalties for violations of the 48-hour notice reporting requirement. 2 U.S.C. 437g(a)(4)(C). The Commission last adjusted the civil penalty for these reporting violations in 2005 to \$110 + (.10 x amount of contribution(s) not timely reported). *See* 2005 Adjustment, 70 FR at 34635; Explanation and Justification for Final Rules on Administrative Fines, 65 FR 31787, 31793 (May 19, 2000). To determine this year's adjustment, The CPI for June 2008

is divided by the CPI for June 2005 (218.815/194.5) for a COLA increase of 0.125. The civil penalty is then multiplied by the COLA for a raw increase of \$13.75, which is then rounded to \$0. Accordingly, the civil penalty in section 111.44 remains at \$110 + (.10 x amount of contribution(s) not timely reported).

While the Commission is not making any adjustments to the civil penalty in 11 CFR 111.44, it is correcting an incorrect phrase in section 111.44(b). Specifically, the phrase “civil money penalty” is incomplete and is being changed to “final civil money penalty.”

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The provisions of the Regulatory Flexibility Act are not applicable to this final rule because the Commission was not required to publish a notice of proposed rulemaking or to seek public comment under 5 U.S.C. 553 or any other laws. 5 U.S.C. 603(a) and 604(a). Therefore, no regulatory flexibility analysis is required.

List of Subjects in 1 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement, Penalties.

■ For the reasons set out in the preamble, the Federal Election Commission amends subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))

■ 1. The authority citation for part 111 continues to read as follows:

Authority 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt.

■ 2. Section 111.24 is amended by revising paragraphs (a)(1), (a)(2)(i), (a)(2)(ii) and (b) to read as follows:

§ 111.24 Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.).

(a) * * *

(1) Except as provided in paragraph (a)(2) of this section, in the case of a violation of the Act or chapters 95 or 96 of title 26 (26 U.S.C.), the civil penalty shall not exceed the greater of \$7,500 or an amount equal to any contribution or expenditure involved in the violation.

(2) * * *

(i) In the case of a knowing and willful violation of the Act or chapters 95 or 96 of title 26 (26 U.S.C.), the civil penalty shall not exceed the greater of \$16,000 or an amount equal to 200% of any contribution or expenditure involved in the violation.

(ii) Notwithstanding paragraph (a)(2)(i) of this section, in the case of a knowing and willful violation of 2 U.S.C. 441f, the civil penalty shall not be less than 300% of the amount of any contribution involved in the violation and shall not exceed the greater of \$60,000 or 1,000% of the amount of any contribution involved in the violation.

(b) Any Commission member or employee, or any other person, who in violation of 2 U.S.C. 437g(a)(12)(A)

makes public any notification or investigation under 2 U.S.C. 437g without receiving the written consent of the person receiving such notification, or the person with respect to whom such investigation is made, shall be fined not more than \$3,200. Any such member, employee, or other person who knowingly and willfully violates this provision shall be fined not more than \$7,500.

■ 3. Section 111.43 is amended by revising paragraphs (a), (b), (c), and (d) to read as follows:

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 ^a	[\$25 + (\$5 x Number of days late)] × [1 + (.25 × Number of previous violations)].	\$250 × [1 + (.25 × Number of previous violations)].
\$5,000–9,999.99	[\$55 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$330 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$110 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$550 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$200 + (\$20 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$990 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$330 + (\$82.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2,970 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$440 + (\$110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3,850 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99	[\$660 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4,950 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$880 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6,050 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$1,100 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7,150 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99	[\$1,500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8,800 × [1 + (.25 × Number of previous violations)]
\$350,000–449,999.99	[\$2,000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9,900 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$2,500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,450 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$3,300 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$3,850 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,500 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$4,400 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$8,50,000–949,999.99	[\$4,950 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,500 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$5,500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)].

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in

accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 ^a	[\$55 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$550 × [1 + (.25 × Number of previous violations)].
\$5,000–9,999.99	[\$110 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$660 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$150 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$990 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$330 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1,400 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$495 + (\$82.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3,300 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$660 + (\$110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4,400 × [1 + (.25 × Number of previous violations)].

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$100,000–149,999.99	[\$990 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5,500 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$1,200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6,600 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$1,500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8,250 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99	[\$2,250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9,900 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99	[\$3,300 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$4,125 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$4,950 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$5,775 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,000 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$6,600 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,400 × [1 + (.25 × Number of previous violations)].
\$850,000–949,999.99	[\$7,425 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,500 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$8,250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$17,600 × [1 + (.25 × Number of previous violations)].

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$6,500.

(d) *Definitions.* For this section only, the following definitions will apply:

(1) *Election Sensitive Reports* means third quarter reports due on October 15th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); monthly reports due October 20th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); and pre-election reports for primary, general, and special elections under 11 CFR 104.5.

(2) *Estimated level of activity* means:

(i) For an authorized committee, total receipts and disbursements reported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity for an authorized committee means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports filed covering the activity in the prior two-year election cycle.

(ii)(A) For an unauthorized committee, estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the current two-year cycle)—(Transfers received from non-Federal account(s) as

reported on Line 18(a) of FEC Form 3X Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] ÷ Number of reports filed to date covering the activity in the current two-year election cycle.

(B) If the unauthorized committee has not filed a report covering activity in the current two-year election cycle, the estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the prior two-year election cycle)—(Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] ÷ Number of reports filed covering the activity in the prior two-year election cycle.

(3) *Level of activity* means:

(i) For an authorized committee, the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (d)(2)(i) of this section.

(ii) For an unauthorized committee, the total amount of receipts and disbursements for the period covered by the late report minus the total of: Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X and disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X for the

period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (d)(2)(ii) of this section.

(4) *Number of previous violations* means all prior final civil money penalties assessed under this subpart during the current two-year election cycle and the prior two-year election cycle.

* * * * *

§ 111.44 [Amended]

■ 4. In paragraph (b) of § 111.44, remove the words “civil money penalty” and add, in their place, the words “final civil money penalty.”

Dated: March 25, 2009.

On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.

Editorial Note: This document was received in the Office of the Federal Register on Thursday, June 25, 2009.

[FR Doc. E9–15483 Filed 6–30–09; 8:45 am]

BILLING CODE 6715–01–P

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

[Docket No. FAA-2009-0121; Directorate Identifier 2008-NE-36-AD; Amendment 39-15958; AD 2009-14-08]

RIN 2120-AA64

Airworthiness Directives; General Electric Company (GE) CF6-80C2B5F Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for GE CF6-80C2B5F turbofan engines. This AD requires removing certain part number (P/N) high-pressure compressor rotor (HPCR) stages 11-14 spool/shafts before they exceed a new, reduced life limit. This AD results from an internal GE audit that compared the life limited parts certification documentation to the airworthiness limitations section (ALS) of the instructions for continuing airworthiness (ICA). We are issuing this AD to prevent HPCR stages 11-14 spool/shaft fatigue cracks caused by exceeding the life limit, which could result in a possible uncontained failure of the HPCR spool/shaft and damage to the airplane.

DATES: This AD becomes effective August 5, 2009.

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

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to GE CF6-80C2B5F turbofan engines. We published the proposed AD in the **Federal Register** on February 20, 2009 (74 FR 7831). That action proposed to require removing certain P/N HPCR stages 11-14 spool/shafts before they exceed a new, reduced life limit.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the

Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received. The commenter supports the proposal.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect one engine installed on an airplane of U.S. registry. We also estimate that the actions would require no work-hours per engine. No parts are required. Based on these figures, we estimate there is no cost of this AD to U.S. operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009-14-08 General Electric Company:
Amendment 39-15958. Docket No. FAA-2009-0121; Directorate Identifier 2008-NE-36-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective August 5, 2009.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to General Electric Company (GE) CF6-80C2B5F turbofan engines with a high-pressure compressor rotor (HPCR) stages 11-14 spool/shaft, part number (P/N) 1703M74G03, installed. These engines are installed on, but not limited to, Boeing 747 series airplanes.

Unsafe Condition

- (d) This AD results from an internal GE audit that compared the life limited parts certification documentation to the airworthiness limitations section (ALS) of the instructions for continuing airworthiness (ICA). We are issuing this AD to prevent HPCR stages 11-14 spool/shaft fatigue cracks caused by exceeding the life limit, which could result in a possible uncontained failure

of the HPCR spool/shaft 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.

New Reduced Life Limit for the HPCR Stages 11–14 Spool/Shaft

(f) Remove any CF6–80C2B5F turbofan engine that has an HPCR stages 11–14 spool/shaft, P/N 1703M74G03, before the spool/shaft meets or exceeds the new, reduced life cycle limit of 19,500 cycles.

Installation Prohibition

(g) After the effective date of this AD, do not install any CF6–80C2B5F turbofan engine that has an HPCR stages 11–14 spool/shaft, P/N 1703M74G03, that meets or exceeds 19,500 cycles.

Alternative Methods of Compliance

(h) 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.

Special Flight Permits

(i) Under 14 CFR part 39.23, we are prohibiting special flight permits for this AD.

Related Information

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

Material Incorporated by Reference

(k) None.

Issued in Burlington, Massachusetts, on June 25, 2009.

Peter A. White,

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

[FR Doc. E9–15513 Filed 6–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2009–0422]

RIN 1625–AA08, 1625–AA00

Safety Zones: Summer 2009 Fireworks, Coastal Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is suspending several special local regulations and establishing temporary

safety zones in various communities along the central and northern coastline of Massachusetts. These safety zones will last for the limited duration of the fireworks. The zones are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from June 27, 2009 through September 5, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0422 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0422 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at the following location: 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 temporary rule, call or e-mail Ensign Marie Haywood, U.S. Coast Guard, Sector Boston, Waterways Management Division; telephone 617–223–5160, e-mail Michele.M.Haywood@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard was not notified of these events with adequate time to publish a NPRM, for fireworks displays that scheduled to occur on various dates between June 27, 2009 and September 05, 2009. Any delay encountered in the regulation’s effective date would be contrary to the public interest, since the safety zones are needed to prevent

traffic from transiting a portion of the coastal waters of Massachusetts during the fireworks displays thus ensuring that the maritime public is protected from any potential harm associated with such an event.

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

Background and Purpose

Various Massachusetts coastal cities are having fireworks displays on or near navigable waterways this summer.

In order to maintain continuity between the regulations for fireworks events established in 33 CFR 100.114 and the rain dates requested for the same events this year, this temporary rule suspends several special local regulations entries in 33 CFR PART 100.114 FIREWORKS DISPLAY TABLE. It also establishes temporary safety zones surrounding the events as described in the List of Subjects. The proposed zones will protect the maritime public from the dangers inherent in waterborne fireworks displays. The Captain of the Port does not anticipate any negative impact on vessel traffic due to implementation of these temporary safety zones. Public notifications will be made prior to the effective period of each proposed zone via Broadcast and Local Notice to Mariners.

Discussion of Rule

The Coast Guard is establishing temporary safety zones in various coastal waterways throughout central and northern Massachusetts. The safety zones will be in effect for the times listed in the List of Subjects. Marine traffic will only be restricted from a portion of the waterway as stated in the List of Subjects to protect the safety of the maritime public. Due to the limited time frame of the fireworks display, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local and broadcast notice to mariners.

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.

This is not a significant regulatory action because the Coast Guard does not anticipate any negative impact on vessel traffic due to implementation of these temporary safety zones and marine traffic will only be restricted from a portion of the waterway. Public notifications will be made prior to the effective period of each proposed zone via Broadcast and Local Notice to Mariners.

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 proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portion of the coastal waterways of Massachusetts at the times and places listed in the “List of Subjects” section. These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for up to three hours, vessel traffic can safely pass around the safety zone during the effected period, and advance notification via broadcast notice to mariners and Local Notice to Mariners will be made before and during the effective period.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman

and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to

health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, 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 (34)(g.), of the Instruction. This rule involves the establishment of safety zone of limited duration. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—MARINE EVENTS AND REGATTAS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. Suspend the following entries in § 100.114(a) FIREWORKS DISPLAY TABLE from June 27, 2009 through September 5, 2009:

- (a) 7.7
- (b) 7.8
- (c) 7.10
- (d) 7.18

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 4. Add § 165.T01-0422 to read:

§ 165T.01-0422 Summer 2009 Fireworks, Coastal Massachusetts.

(a) *Location.* The following waterborne fireworks events include safety zones as described herein:

(1) *Hingham 4th of July Fireworks*
Sponsor: Hingham Lions Club.
Enforcement Date: 8 to 10 p.m. on July 3, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: Hingham Bay, Hingham, MA. The area within a 200

yard radius of the beach on Button Island at the approximate position 42°15'04" N, 070°53'02" W.

(2) *Weymouth 4th of July Fireworks.*
Sponsor: Town of Weymouth 4th of July Committee

Enforcement Date: 9 p.m. to 10:45 p.m. on July 3, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: Weymouth Fore River, Weymouth, MA. All waters surface to bottom extending out in a 500 yard radius of the approximate location 42°15'30" N, 070°56'06" W.

(3) *Boston Pops Fireworks*
Sponsor: Boston 4 Celebrations.
Enforcement Date: 8:30 p.m. through 11:30 p.m. on July 4, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: Charles River, Boston, MA. All waters from surface to bottom, within a 400 yard radius of the fireworks barges located in the vicinity of 42°21'26" N, 71°05'02" W.

(4) *Marblehead 4th of July Fireworks*
Sponsor: Town of Marblehead.
Enforcement Date: 8:30 p.m. until 10 p.m. on July 4, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: Marblehead Harbor, Marblehead, MA. All waters from surface to bottom, within a 200 yard radius of the fireworks launch site located in Marblehead Harbor at approximate position 42°30'34" N, 070°50'9" W.

(5) *Salem 4th of July Fireworks*
Sponsor: City of Salem.
Date: 9 p.m. until 10:15 p.m. on July 4, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: Salem Harbor, Salem, MA. All waters of Salem Harbor, from surface to bottom, within a 100 yard radius of the fireworks launch site located on Derby Wharf approximate position 42°31'8.7" N, 70°53'8" W.

(6) *New England Sand Sculpting Festival Fireworks*

Sponsor: Town of Revere.
Enforcement Date: 9 p.m. to 11 p.m. on July 18, 2009; if postponed, July 19, 2009 at the same times.

Regulated area: All waters of Broad Sound, from surface to bottom, within a 300 yard radius of the fireworks launch site located at Revere Beach at approximate position 42°24'30" N, 070°59'26" W.

(7) *City of Lynn 4th of July Fireworks*
Sponsor: City of Lynn.
Enforcement Date: 6 p.m. through 11 p.m. on July 3, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: All waters of Nahant Bay, from surface to bottom, within a 200 yard radius of the fireworks barge located at approximate location 42°27'37" N, 070°55'35" W.

(8) *Nahant 4th of July Fireworks*
Sponsor: Town of Nahant.
Enforcement Date: 9 p.m. until 11 p.m. on July 4, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: The area of Nahant Harbor within a 200 yard radius of the fireworks launch site on Bailey's Hill Park located at approximate position 42°25'6" N, 070°55'48" W.

(9) *Celebrate Revere Fireworks*
Sponsor: Town of Revere.
Enforcement Date: 9 p.m. to 11 p.m. on August 15, 2009; if postponed, August 16, 2009 at the same times.

Regulated area: Broad Sound, Revere, MA. All waters from surface to bottom, within a 300 yard radius of the fireworks launch site located at Revere Beach at approximate position 42°24'30" N, 070°59'26" W.

(10) *Beverly Homecoming Fireworks*
Sponsor: Beverly Harbormaster.
Enforcement Date: 9 p.m. through 11 p.m. on August 9, 2009.

Regulated area: Beverly Harbor, Beverly, MA. All waters from surface to bottom, within a 200 yard radius of the fireworks barge located at approximate position 42°32'37" N, 070°52'09" W.

(11) *Beverly 4th of July Fireworks*
Sponsor: Beverly Harbormaster.
Enforcement Date: 9 p.m. until 11 p.m. on July 4, 2009; if postponed, July 5, 2009 at the same times.

Regulated area: Beverly Harbor, Beverly, MA. All waters from surface to bottom, within a 200 yard radius of the fireworks barge located at approximate position 42°32'37" N, 070°52'09" W.

(12) *Surfside Fireworks*
Effective Date: From June 27, 2009 through September 5, 2009.

Enforcement Date: Every Saturday evening from 9:30 p.m. through 10:30 p.m.

Regulated area: All waters of the Atlantic Ocean near Salisbury Beach, MA from surface to bottom, within a 200 yard radius of the fireworks barge located at 42°50'36" N, 070°48'24" W.

(b) *Regulations.* "Official Patrol Vessels" consist of any Coast Guard, other Federal, state or local law enforcement, and any public or sponsor-provided vessels assigned or approved by Commander, Sector Boston, to patrol each event.

(1) In accordance with the general regulations in § 165.23 of this part, entering into, transiting through, or anchoring within these zones is prohibited, unless authorized by the Patrol Commander.

(2) Each person in a safety zone who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the

movement of all vessels in the regulated area. The Patrol Commander shall be designated by the Commander, Sector Boston; will be a U.S. Coast Guard commissioned officer, warrant officer or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol vessel.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port (COTP) or the COTP's designated representative to obtain permission by calling the Sector Boston Command Center at 617-223-5761. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

(5) The Patrol Commander may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

(c) All coordinates reference 1983 North American Datum (NAD83).

Dated: June 18, 2009.

John N. Healey,

Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. E9-15602 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2009-0045]

RIN 1625-AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Direct final rule; request for comments.

SUMMARY: By this direct final rule, the Coast Guard is revising the southern boundary of Anchorage Ground No. 20-F in Upper New York Bay. This action is necessary so that the Anchorage Ground does not extend into the Port Jersey Federal Channel that is being expanded as part of the Port of New York/New Jersey Harbor Deepening Project. This action is intended to increase the safety of life and property for the Port of New York/New Jersey, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of commercial vessels and commerce.

DATES: This rule is effective September 29, 2009, unless an adverse comment, or

notice of intent to submit an adverse comment, is either submitted to our online docket via <http://www.regulations.gov> on or before August 31, 2009 or reaches the Docket Management Facility by that date. If an adverse comment, or notice of intent to submit an adverse comment, is received by August 31, 2009, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0045 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, e-mail or call Mr. Jeff Yunker, Waterways Management Division, telephone 718-354-4195, e-mail

jeff.m.yunker@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-2009-0045), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and

material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2009-0045" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing 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-2009-0045 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. If you do not have access to the internet, you may also view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act:

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

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting 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

We are publishing this direct final rule under 33 CFR 1.05–55 because we do not expect an adverse comment. If no adverse comment or notice of intent to submit an adverse comment is received by August 31, 2009, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, we will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to submit an adverse comment, we will publish a document in the **Federal Register** announcing the withdrawal of all or part of this direct final rule. If an adverse comment applies only to part of this rule (e.g., to an amendment, a paragraph, or a section) and it is possible to remove that part without defeating the purpose of this rule, we may adopt, as final, those parts of this rule on which no adverse comment was received. We will withdraw the part of this rule that was the subject of an adverse comment. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered “adverse” if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

Background

This rule is necessary to ensure the safety of navigation for vessels operating in the area as well as for vessels involved with the Port Jersey Federal Channel deepening project. The current boundary of Anchorage Ground No. 20–F overlaps the expanded boundary of Port Jersey Federal Channel that is being deepened as part of the U.S. Army Corps of Engineers Port of New York/New Jersey harbor deepening project. Without the changes implemented by this rule, vessels could mistakenly anchor within the expanded Port Jersey Federal Channel while other vessels are dredging the channel in preparation for larger vessels with a deeper draft to moor at facilities adjacent to Port Jersey Federal Channel. Revising the southern boundary of Anchorage Ground No. 20–F to where it no longer interferes with the Port Jersey Federal Channel will

remove the current authorization for vessels to mistakenly anchor within a Federal Channel, and therefore remove this hazardous condition for vessels navigating in this area.

In addition to revising the southern boundary of the anchorage zone, the two geographic coordinates that make up the northern boundary are being updated to datum NAD 83. The physical location of these points are not moving, however there are slight changes in the coordinates that reflect the update in datum.

Discussion of the Rule

This rule revises the southern boundary of Anchorage Ground No. 20–F in Upper New York Bay by moving it northward, thus reducing the overall size of the anchorage. This change to the boundary is necessary because the adjacent Port Jersey Federal Channel is being expanded into the current Anchorage Ground No. 20–F boundary as part of the Port of New York/New Jersey harbor deepening project. The revised southern boundary would be moved to the north by approximately 130 yards. This rule further modifies the geographic coordinates of the two northern points of the anchorage so as to conform with datum NAD 83. The physical location of the two northern points do not change and there will be no resulting change in these two points on the current navigational charts, only the geographic position descriptions are revised based on the updated reference datum.

Regulatory Analysis

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.

This determination is based on the fact that the expansion of the Port Jersey Federal Channel has already been approved through the U.S. Army Corps of Engineers permitting process. Due to the progress of this channel expansion, the southern area of this Anchorage Ground is no longer available for vessels to anchor within as vessels under contract to the U.S. Army Corps of

Engineers have been, and continue to dredge in what is the south end of the current boundary of Anchorage Ground No. 20–F.

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.

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to anchor within the southern portion of Anchorage Ground No. 20–F.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels will still be able anchor, or stem the tide, to the east of the two charted commercial mooring buoys located within the northern portion of Anchorage Ground No. 20–F. This revision is due to the Port of New York/New Jersey harbor deepening project that includes the expansion of the Port Jersey Federal Channel. This project has been well publicized to the maritime community through the Local Notice to Mariners, Coast Guard Homeport Web site at <http://homeport.uscg.mil/newyork>, monthly project update meetings held by the U.S. Army Corps of Engineers, and regularly scheduled Harbor Safety, Navigation and Operations Committee meetings.

Therefore, 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. Comments submitted in response to this finding will be evaluated under the criteria in the “Regulatory Information” section of this preamble.

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 the 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 or compliance, please consult Mr. Jeff Yunker at the address listed under

ADDRESSES. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

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 M16475.1D, 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 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 section 2.B.2, figure 2-1, paragraph (34)(f) of the Instruction. This rule involves the reduction in the size of an existing anchorage area. Under figure 2-1, paragraph (34)(f) 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 110

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.155, by revising paragraph (d)(7) to read as follows:

§ 110.155 Port of New York.

* * * * *

(d) * * *

(7) *Anchorage No. 20-F.* All waters bound by the following points: 40°40'12.2" N, 074°03'39.9" W; thence to 40°39'53.9" N, 074°03'09.6" W; thence to 40°39'38.9" N, 074°03'19.5" W; thence to 40°39'53.5" N, 074°03'53.7" W; thence to the point of origin (NAD 83).

(i) See 33 CFR 110.155 (d)(9), (d)(16), and (l).

(ii) [Reserved]

* * * * *

Dated: May 28, 2009.

Dale G. Gabel,

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

[FR Doc. E9-15603 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 138**

[Docket No. USCG–2008–0007]

RIN 1625–AB25

Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability—Vessels and Deepwater Ports

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is increasing the limits of liability under the Oil Pollution Act of 1990 (OPA 90), for vessels and deepwater ports subject to the Deepwater Port Act of 1974, to reflect significant increases in the Consumer Price Index (CPI). This interim rule also establishes the methodology the Coast Guard uses to adjust OPA 90 limits of liability for inflation, including the frequency with which such adjustments may be made. The inflation adjustments to the limits of liability are required by OPA 90 to preserve the deterrent effect and polluter-pays principle embodied in the OPA 90 liability provisions. Lastly, this interim rule makes minor amendments to clarify the applicability of the OPA 90 single-hull tank vessel limits of liability. Because the single-hull tank vessel amendments were not previously discussed in the notice of proposed rulemaking (hereafter the CPI NPRM), the Coast Guard is inviting additional public comment on this issue.

DATES: *Effective date:* This interim rule is effective July 31, 2009. To the extent this interim rule affects the collection of information in 33 CFR 138.85, the Coast Guard will not enforce the information collection request triggered by this rulemaking until it is approved by the Office of Management and Budget.

Comment date: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before August 31, 2009 or reach the Docket Management Facility by that date. Comments on collection of information must be sent to the docket for this rulemaking and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), as described below, on or before August 31, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–

2008–0007 using any one of the following methods:

- (1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.
 (2) *Fax:* 202–493–2251.
 (3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
 (4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

Collection of Information Comments: The adjustments to the limits of liability implemented by this rulemaking amend the evidence of financial responsibility applicable amounts in Title 33 of the Code of Federal Regulations (CFR), at section 138.80(f), by reference, and therefore revise the collection of information required by 33 CFR 138.85. A revised collection of information request will be submitted to OIRA for approval. If you have comments on the collection of information required by section 33 CFR 138.85, you must submit your collection of information comments to the docket and to OIRA. To ensure that your comments to OIRA are received on time, the preferred methods are by e-mail to oira_submission@omb.eop.gov (include the docket number and “Attention: Desk Officer for Coast Guard, DHS” in the subject line of the e-mail) or fax at 202–395–6566. An alternate, though slower, method is by U.S. Mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, *Attn:* Desk Officer, U.S. Coast Guard, DHS.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, e-mail or call Benjamin White, National Pollution Funds Center, Coast Guard, e-mail Benjamin.H.White@uscg.mil, telephone 202–493–6863. 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:**Table of Contents for Preamble**

- I. Public Participation and Request for Comments
 A. Submitting Comments

- B. Viewing Comments and Documents
 C. Privacy Act
 D. Public Meeting
 II. Abbreviations
 III. Regulatory History
 IV. Background
 V. Discussion of the Interim Rule, Comments and Changes
 A. What Are the Inflation—Adjusted OPA 90 Limits of Liability for Vessels and Deepwater Ports?
 B. Explanation of the CPI Adjustment Methodology
 1. How does the Coast Guard calculate the CPI adjustment to the limits of liability?
 2. Which CPI does the Coast Guard use?
 3. What time interval CPI–U does the Coast Guard use for the adjustments?
 4. How does the Coast Guard calculate the percent change in the Annual CPI–U?
 5. What “Previous Period” dates is the Coast Guard using for this first set of inflation adjustments to the limits of liability?
 6. What Annual CPI–U “Previous Period” and “Current Period” values has the Coast Guard used for this first set of inflation adjustments to the limits of liability for vessels and Deepwater Ports?
 7. How will the Coast Guard calculate the percent change for subsequent inflation adjustments to the OPA 90 limits of liability?
 (a) 2012 Adjustments
 (b) How are “significant increases” and “not less than every 3 years” defined?
 (c) What if the “significant increases” threshold is not met?
 8. What procedures does the Coast Guard plan to use to promulgate subsequent inflation adjustments to the OPA 90 limits of liability?
 C. Discussion of Comments and Changes
 1. Public Comments on the CPI NPRM
 2. Public Comments on the Prior COFR Rule Relating to CPI Adjustments to Limits of Liability
 3. Single-Hull Tank Vessel Clarifying Changes and Request for Comment
 VI. Regulatory Analyses
 A. Regulatory Planning and Review
 B. Small Entities
 C. Assistance for Small Entities
 D. Collection of Information
 E. Federalism
 F. Unfunded Mandates Reform Act
 G. Taking of Private Property
 H. Civil Justice Reform
 I. Protection of Children
 J. Indian Tribal Governments
 K. Energy Effects
 L. Technical Standards
 M. Environment

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials on the amendments to 33 CFR 138.220(b) and 138.230(a) that were not discussed in the CPI NPRM. These amendments clarify applicability of the OPA 90 single-hull tank vessel limits of liability. All comments received on this interim rule will be posted, without change, to

<http://www.regulations.gov> and will include any personal information you have provided.

A. Submitting Comments

If you submit comments, please include the docket number for this rulemaking (Docket No. USCG-2008-0007), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2008-0007" 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 your comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-0007 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the U.S. 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.

C. 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).

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting 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**.

II. Abbreviations

APA Administrative Procedure Act, 5 U.S.C. 551, *et seq.*
 BLS U.S. Department of Labor, Bureau of Labor Statistics
 CFR Code of Federal Regulations
 COFR Certificate of Financial Responsibility
 COFR Rule The final rule published on September 17, 2008, titled "Financial Responsibility for Water Pollution (Vessels) and OPA 90 Limits of Liability (Vessels and Deepwater Ports)", 73 FR 53691 (Docket No. USCG-2005-21780)
 CPI Consumer Price Index
 CPI NPRM The notice of proposed rulemaking published on September 24, 2008, titled "Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability—Vessels and Deepwater Ports", 73 FR 54997 (Docket No. USCG-2008-0007)
 CPI-U Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All Items, 1982-84=100
 Deepwater Port A deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524)
 DHS U.S. Department of Homeland Security
 DOI U.S. Department of Interior
 DOT U.S. Department of Transportation
 DRPA Delaware River Protection Act of 2006, Title VI of the Coast Guard and Maritime Transportation Act of 2006, Public Law 109-241, July 11, 2006, 120 Stat. 516
 E.O. Executive Order
 EPA U.S. Environmental Protection Agency
 FR Federal Register
 Fund Oil Spill Liability Trust Fund
 LNG Liquefied natural gas (methane)
 LPG Liquefied petroleum gas
 LOOP Louisiana Offshore Oil Port
 MODU Mobile Offshore Drilling Unit
 MTR Marine transportation-related
 NAICS North American Industry Classification System
 NMTR Non-marine transportation-related
 NPFC National Pollution Funds Center
 NPRM Notice of proposed rulemaking
 NTR Non-transportation-related
 OIRA Office of Information and Regulatory Affairs
 OIL Oil Insurance Limited of Bermuda

OMB Office of Management and Budget
 OPA 90 The Oil Pollution Act of 1990, as amended (Title I of which is codified at 33 U.S.C. 2701, *et seq.*; Title IV of which is codified in relevant part at 46 U.S.C. 3703a)

§ Section symbol
 SBA U.S. Small Business Administration
 U.S.C. U.S. Code
 U.S.C.C.A.N. U.S. Code Congressional and Administrative News

III. Regulatory History

On September 24, 2008, we published the CPI NPRM, entitled "Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability—Vessels and Deepwater Ports" in the **Federal Register**, at 73 FR 54997. The CPI NPRM proposed to adjust the OPA 90 limits of liability, set forth at 33 CFR part 138, subpart B, for vessels and for deepwater ports licensed under the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501, *et seq.*) (hereinafter "Deepwater Ports"), for inflation under 33 U.S.C. 2704(d). We received four letters with seven comments on the CPI NPRM. No public meeting was requested for this rulemaking and none was held.

Previously, on September 17, 2008, the Coast Guard published a related final rule for the OPA 90 Certificate of Financial Responsibility (COFR) Program entitled "Financial Responsibility for Water Pollution (Vessels) and OPA 90 Limits of Liability (Vessels and Deepwater Ports) (Docket No. USCG-2005-21780), at 73 FR 53691 (hereafter the COFR Rule). (See also, the COFR Rule NPRM at 73 FR 6642 and 73 FR 8250.) That rulemaking divided 33 CFR part 138 into two subparts, setting forth the COFR program requirements as amended by the rulemaking in new subpart A, and (of relevance to this rulemaking) setting forth the OPA 90 limits of liability for oil spill source categories regulated by the Coast Guard in new subpart B. The COFR Rule thereby provided the framework for ensuring regulatory consistency when the OPA 90 limits of liability for oil spill source categories regulated by the Coast Guard are established or adjusted by regulation under 33 U.S.C. 2704(d). Three letters with five comments concerning CPI adjustments to the OPA 90 limits of liability were submitted to the docket for the related COFR Rule.

Finally, we received a question on implementation of the related final COFR Rule during the public comment period for the CPI NPRM (Docket No. USCG-2008-0007-0013). The question, which originally was not submitted to the docket for this rulemaking, raised a substantive and persuasive issue concerning the applicability of the

single-hull tank vessel limits of liability that are amended by this rulemaking. A similar comment letter was submitted to the COFR Rule docket (Docket No. USCG-2005-21780-0013). To address the hull category issue raised in the public comment, without delaying the required adjustments to the limits of liability for inflation, we are publishing this interim rule, with minor amendments to §§ 138.220(b) and 138.230(a), and we are inviting comment on these amendments.

Although the public will have an opportunity to comment on the hull category amendments to §§ 138.220(b) and 138.230(a), we note that the Coast Guard is issuing the amendments 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)). That provision of the APA 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), the Coast Guard finds that good cause exists for not publishing another NPRM with respect to the hull category amendments to 33 CFR 138.220(b) and 138.230(a) of this rule so as to conform the rule’s treatment of the vessel hull categories, which were previously adopted in the final COFR Rule and proposed in the CPI NPRM, to the OPA 90 statutory scheme, including the Delaware River Protection Act of 2006 (DRPA) amendments. Failing to amend the hull category provisions would be contrary to the public interest. Moreover, it is in the best interest of the public to ensure that vessel owners, operators and demise charters are subject to the correct limits of liability.

All comments and other materials related to this rulemaking have been placed in the public docket (Docket No. USCG-2008-0007). This includes U.S. Department of Labor, Bureau of Labor Statistics (BLS) documentation pertinent to this rulemaking.

IV. Background

In general, under Title I of OPA 90, “each responsible party [*i.e.*, the owners and operators, including demise charterers] for a vessel or a facility from which oil is discharged, or which poses a substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in [OPA 90, at 33 U.S.C. 2702(b)], that result from such incident.” (33 U.S.C. 2702(a)).

Embodying the polluter-pays principle, this liability is strict, joint and several.¹ The responsible parties’ total liability for OPA 90 removal costs and damages (including for removal costs incurred by, or on behalf of, the responsible parties) is, however, limited as provided in 33 U.S.C. 2704 except under certain circumstances as provided in 33 U.S.C. 2704(c). In instances when the OPA 90 limits of liability apply, the Oil Spill Liability Trust Fund (the Fund) is available to compensate the responsible parties and other claimants for OPA 90 removal costs and damages in excess of the applicable OPA 90 liability limits. (See 33 U.S.C. 2708, 2712(a)(4) and 2713; and 33 CFR part 136.)

OPA 90, at 33 U.S.C. 2704(a), sets forth the base dollar amounts of the limits of liability for four specified oil spill source categories: vessels (*i.e.*, single-hull tank vessels, other-hull tank vessels, and non-tank vessels), onshore facilities, Deepwater Ports, and offshore facilities (other than Deepwater Ports). In addition, to prevent the real value of the limits of liability from depreciating over time as a result of inflation, and to thereby preserve the polluter-pays principle, OPA 90 requires the President to periodically increase the limits of liability by regulation to reflect significant increases in the CPI. (See 33 U.S.C. 2704(d)(4).)

In Executive Order (E.O.) 12777, the President delegated implementation of the OPA 90 limit of liability inflation adjustment authorities, dividing the responsibility among several Federal agencies. Through a series of further delegations, the Coast Guard has been delegated the President’s authority to adjust the OPA 90 limits of liability for vessels, Deepwater Ports (including associated pipelines), and transportation-related onshore facilities, but not including pipelines, motor carriers and railroads (hereinafter “marine transportation-related” or “MTR” onshore facilities). The Department of Transportation (DOT) has been delegated the President’s authority to adjust the limit of liability for onshore pipelines, motor carriers, and

railways (hereinafter “non-marine transportation-related” or “NMTR” onshore facilities). The U.S. Environmental Protection Agency (EPA) has been delegated the President’s authority to adjust the limits of liability for non-transportation-related onshore facilities (hereinafter “non-transportation-related” or “NTR” onshore facilities). Finally, the Department of Interior (DOI) has been delegated the President’s authority to adjust the limits of liability for offshore facilities and associated pipelines, other than Deepwater Ports (hereinafter “offshore facilities”).

In addition, on August 4, 1995, DOT, which then included the Coast Guard, promulgated a facility-specific limit of liability for the Louisiana Offshore Oil Port (LOOP) under the OPA 90 Deepwater Port limit of liability adjustment authority at 33 U.S.C. 2704(d)(2). (60 FR 39849). The preamble for that final rule specifically contemplated that the LOOP regulatory limit of liability would be adjusted for inflation to prevent the real value of the LOOP limit from depreciating over time.

V. Discussion of the Interim Rule, Comments and Changes

This interim rule implements the first mandated adjustments, under 33 U.S.C. 2704(d), to the OPA 90 limits of liability for vessels and Deepwater Ports, including LOOP, to reflect significant increases in the CPI. This rulemaking also establishes the methodology for making inflation adjustments to the OPA 90 limits of liability for all oil spill source categories for which the Coast Guard has jurisdiction. The inflation-adjusted limits of liability are discussed in subsection V.A. of this preamble, below. The inflation adjustment methodology is discussed in subsection V.B. of this preamble, below. Public comments and changes to the CPI NPRM, including the hull category amendments, are discussed in subsection V.C. of this preamble, below.

As explained in the CPI NPRM, to ensure future consistency in inflation adjustments to the limits of liability for all OPA 90 oil spill source categories, the Coast Guard has coordinated the CPI adjustment methodology with DOT, EPA, and DOI. In addition, the Coast Guard, DOT, EPA, and DOI have agreed to coordinate the CPI inflation adjustments to the limits of liability for facilities (*i.e.*, for MTR onshore facilities regulated by Coast Guard, NMTR onshore facilities regulated by DOT, NTR onshore facilities regulated by EPA, and offshore facilities regulated by DOI), as part of the next cycle of inflation adjustments to the limits of

¹ See *Oil Pollution Desk Book*, Environmental Law Institute 1991, hereinafter OPA 90 Desk Book, p. 88, H.R. Conf. Report 101-653, at p. 102, reprinted in 1990 U.S.C.C.A.N. 779, 780 (“The term ‘liable’ or ‘liability’ * * * is to be construed to be the standard of liability * * * under section 311 of the [Federal Water Pollution Control Act, 33 U.S.C. 1321]. * * * That standard of liability has been determined repeatedly to be strict, joint and several liability.”); OPA 90 Desk Book p. 93, H.R. Conf. Report 101-653, at 118, 1990 U.S.C.C.A.N., at 797 (August 3, 1990) (“[T]he primary responsibility to compensate victims of oil pollution rests with the person responsible for the source of the pollution[.]”).

liability. This phased approach will allow adequate time for the additional interagency coordination necessary to ensure consistency in implementing the CPI adjustments to the OPA 90 limits of liability for all onshore and offshore facilities.

A. What Are the Inflation-adjusted OPA 90 Limits of Liability for Vessels and Deepwater Ports?

The new OPA 90 limits of liability for vessels and Deepwater Ports (rounded to the closest \$100), adjusted for inflation

using the adjustment methodology established by this rulemaking, are:

Source category	Previous limit of liability	New limit of liability
(a) Vessels:		
(1) For an oil cargo tank vessel greater than 3,000 gross tons with a single hull, including a single-hull tank vessel fitted with double sides only or a double bottom only.	The greater of \$3,000 per gross ton or \$22,000,000.	The greater of \$3,200 per gross ton or \$23,496,000.
(2) For a tank vessel greater than 3,000 gross tons, other than a vessel referred to in (a)(1).	The greater of \$1,900 per gross ton or \$16,000,000.	The greater of \$2,000 per gross ton or \$17,088,000.
(3) For an oil cargo tank vessel less than or equal to 3,000 gross tons with a single hull, including a single-hull tank vessel fitted with double sides only or a double bottom only.	The greater of \$3,000 per gross ton or \$6,000,000.	The greater of \$3,200 per gross ton or \$6,408,000.
(4) For a tank vessel less than or equal to 3,000 gross tons, other than a vessel referred to in (3).	The greater of \$1,900 per gross ton or \$4,000,000.	The greater of \$2,000 per gross ton or \$4,272,000.
(5) For any other vessel	The greater of \$950 per gross ton or \$800,000.	The greater of \$1,000 per gross ton or \$854,400.
(b) Deepwater Ports:		
(1) For a Deepwater Port, other than a Deepwater Port with a limit of liability established by regulation under 33 U.S.C. 2704(d)(2).	\$350,000,000	\$373,800,000.
(2) For the Louisiana Offshore Oil Port (LOOP) ² .	\$62,000,000	\$87,606,000.

The new inflation-adjusted limits of liability for vessels and Deepwater Ports are set forth in § 138.230(a) and (b).³

We note that the single-hull tank vessel limits of liability were described in 33 CFR part 138, subpart B, and in the CPI NPRM as applying to all tank vessels. Following the public comment period for the CPI NPRM, however, the Coast Guard determined that the single-hull limits of liability only apply under the OPA 90 statutory scheme to a single-hull tank vessel that is “constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue” (referred to in this preamble as a single-hull “oil cargo tank vessel”). The Coast Guard is, therefore, amending §§ 138.220 (Definitions) and 138.230 (Limits of liability) to clarify this point, and invites public comment on this issue.

² Currently LOOP is the only Deepwater Port with a limit of liability established by regulation under 33 U.S.C. 2704(d)(2).

³ Section 138.230(b)(2)(i) contains the limit of liability for LOOP. Section 138.230(b)(2)(ii) has been reserved for future use to set forth any other Deepwater Port limits of liability that may be established by regulation under 33 U.S.C. 2704(d)(2). Section 138.230(c) has been reserved for future use to set forth the limit of liability for MTR onshore facilities.

B. Explanation of the CPI Adjustment Methodology

1. How does the Coast Guard calculate the CPI adjustment to the limits of liability?

We calculate the CPI adjustments to the limits of liability for Coast Guard source categories using the following formula:

New limit of liability = Previous limit of liability + (Previous limit of liability x percent change in the CPI from the year the Previous limit of liability was established, or last adjusted by statute or regulation, whichever is later, to the present year), then rounded to the closest \$100.

2. Which CPI does the Coast Guard use?

The BLS publishes a variety of inflation indices. We use the “Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All Items, 1982 – 84 = 100”, also known as “CPI-U”. This is the most current and is the broadest index published by BLS. It also is commonly relied on in insurance policies and other commercial transactions with automatic inflation protection, by the media, and by economic analysts.

3. What time interval CPI-U does the Coast Guard use for the adjustments?

BLS publishes the CPI-U in both monthly and annual periods. For consistency and simplicity, we use the annual period CPI-U (hereinafter the “Annual CPI-U”) rather than the monthly period CPI-U. In this way, as explained further in the CPI NPRM, we can avoid having to publish distinct percent change values for the different sources and source categories in future adjustment cycles, based on the month when each source or source category’s limit of liability was established or last adjusted.

4. How does the Coast Guard calculate the percent change in the Annual CPI-U?

We calculate the percent change in the Annual CPI-U using the BLS escalation formula described in Fact Sheet 00-1, U.S. Department of Labor Program Highlights, “How to Use the Consumer Price Index for Escalation”, September 2000.

This formula provides that:
Percent change in the Annual CPI-U = [(Annual CPI-U for Current Period – Annual CPI-U for Previous Period) ÷ Annual CPI-U for Previous Period] X 100.

Fact Sheet 00-1 is available from the BLS online at <http://www.bls.gov>. The Fact Sheet may also be viewed on the docket for this rulemaking, at Docket No. USCG-2008-0007-0011.

The following example illustrates how we applied the BLS escalation formula to calculate the percent change in the Annual CPI-U used in this rulemaking to adjust the limits of liability for vessels and Deepwater Ports generally:

Annual CPI-U for Current Period (2008): 215.3
 Minus Annual CPI-U for Previous Period (2006): 201.6
 Equals index point change: 13.7
 Divided by Annual CPI-U for Previous Period: 201.6
 Equals: 0.068
 Result multiplied by 100: 0.068 X 100
 Equals percent change in the Annual CPI-U: 6.8 percent

The "Current Period" and "Previous Period" Annual CPI-U values may be viewed on the docket, at Docket No. USCG-2008-0007-0012, and online at <http://data.bls.gov>. Note that the "Current Period" value for this methodology will always be the Annual CPI-U for the previous calendar year. This is due to the schedule for BLS publication each year of the Annual CPI-U. Note also that the percent change is rounded to one decimal place.

5. What "Previous Period" dates is the Coast Guard using for the first inflation adjustments to the limits of liability?

As explained in the CPI NPRM, the "Previous Period" date for the first inflation adjustments to the limits of liability in 33 U.S.C. 2704(a) (*i.e.*, the limits of liability for all Coast Guard delegated source categories other than LOOP), is 2006. This is based on the date of enactment of the DRPA, which was July 11, 2006, and is the last date the limits of liability in 33 U.S.C. 2704(a) were adjusted.⁴ In addition, the "Previous Period" date for the first inflation adjustment to the LOOP limit of liability is 1995. This is based on the date the LOOP limit of liability was established by regulation, which was August 4, 1995. (See 60 FR 39849.) There have been no adjustments made to the LOOP limit of liability since 1995.

⁴ As proposed in the CPI NPRM, we will also use the 2006 Annual CPI-U as the "Previous Period" date for the first set of adjustments to the limit of liability for MTR onshore facilities.

6. What Annual CPI-U "Previous Period" and "Current Period" values has the Coast Guard used for this first set of inflation adjustments to the limits of liability for vessels and Deepwater Ports?

The "Previous Period" and "Current Period" values used for this rulemaking are as follows:

(a) For LOOP, the "Previous Period" value, using the 1995 Annual CPI-U, is 152.4; the "Current Period" value, using the 2008 Annual CPI-U, is 215.3.

(b) For vessels and Deepwater Ports generally (*i.e.*, all Deepwater Ports other than LOOP), the "Previous Period" value, using the 2006 Annual CPI-U, is 201.6; the "Current Period" value, using the 2008 Annual CPI-U, is 215.3.

Inserting these values into the BLS escalation formula yields the following percent change values in the Annual CPI-U (rounded to one decimal place):

For LOOP: 41.3 percent
 For vessels and other Deepwater Ports: 6.8 percent

7. How will the Coast Guard calculate the percent change for subsequent inflation adjustments to the OPA 90 limits of liability?

This rulemaking also establishes the adjustment methodology the Coast Guard will use for subsequent CPI adjustments to the OPA 90 limits of liability for all Coast Guard source categories, including MTR onshore facilities. In this interim rule we adopt the methodology proposed in the CPI NPRM with one clarification. Specifically, as discussed further below, we have clarified in § 138.240 that the Coast Guard has discretion to adjust the limits more frequently than every three years.

(a) 2012 Adjustments

For the next set of inflation adjustments to the limits of liability, scheduled for 2012, we plan to publish the adjustments, in coordination with similar rulemakings by DOT, EPA and DOI, for all Coast Guard source categories, including MTR facilities. This will be done to simplify subsequent inflation adjustments to the limits of liability for all of the OPA 90 source categories.

Specifically, unless Congress amends the limits of liability again, we will calculate the Annual CPI-U change using: (1) the 2008 Annual CPI-U as the "Previous Period" value for vessels and Deepwater Ports including LOOP, and (2) the 2006 Annual CPI-U as the "Previous Period" value for MTR facilities since that will be the first time those limits will be adjusted. In

addition, assuming the coordinated set of rulemakings is completed in 2012, we will use the 2011 Annual CPI-U as the "Current Period" value.

(b) How are "significant increases" and "not less than every 3 years" defined?

As explained in the CPI NPRM, OPA 90, at 33 U.S.C. 2704(d)(4), as amended by Section 603 of the DRPA, requires that the OPA 90 limits of liability be adjusted "not less than every 3 years * * * to reflect significant increases in the Consumer Price Index."

The word "increases" indicates clearly that Congress intended that the limits be adjusted only for inflation, and that there would be no decreases to the limits of liability due to decreases in the CPI. It, however, is equally apparent that, if Congress had wanted the adjustments to occur routinely every 3 years, the mandate would not have included the qualifier "significant." The word "significant" is not defined in OPA 90. As discussed in greater detail in the CPI NPRM, we therefore looked to the legislative history and to the dictionary meaning of "significant" to help interpret what Congress meant.

The Conference Report Joint Explanatory Statement, at p. 106, describes the CPI adjustment mandate as requiring adjustments "at least once every three years", to reflect significant increases in the CPI. (See OPA 90 Desk Book, p. 89, H.R. CONF. REP. 101-653, Joint Explanatory Statement, August 1, 1990.) This explanation indicates that the statutory wording "not less than" means that adjustments are permitted, but not required, more frequently than every three years. The Conference Report and other legislative history provide general indications of the overall intent of the OPA 90 liability provisions. (See CPI NPRM.) The legislative history does not, however, explain what Congress meant by the word "significant". Nor have we found any other Federal statute that uses the same wording. Congress, therefore, left it to the President to give meaning to the term "significant".

The plain meaning of "significant" is "meaningful" (see Webster's II New Riverside University Dictionary (1988)), but meaningful in respect to what? Consistent with the Congressional focus on preserving OPA 90's deterrent effect and avoiding risk shifting to the Fund, the Coast Guard analyzed historical data on incident costs. We found that even small increases in the CPI can have significant risk shifting impacts. (See Report On Oil Pollution Act Liability Limits, U.S. Department Of Homeland Security, U.S. Coast Guard, transmitted to the Senate Committee on Commerce,

Science, and Transportation on January 5, 2007.)

For example, based on our further analysis of the historical cost averages in that report, a 1 percent per year increase in the CPI will shift incident cost risk from the responsible parties to the Fund by an estimated \$900,000 over three years. When adjustments to limits of liability are delayed, the Fund will, with inflation, inevitably be at risk for a higher share of incident costs than intended by OPA 90. Consequently, responsible party risk and the intended deterrent effect of the limits of liability are reduced.

In consideration of the historical data, the Coast Guard believes it is reasonable and consistent with Congressional intent to treat any cumulative increase in the CPI of 3 percent or greater over a three year period as significant and as the appropriate threshold for triggering an adjustment to the limits of liability.

A triennial 3-percent threshold results in a predictable, regular schedule of smaller-increment adjustments to the limits of liability for inflation. It thereby maintains a balance between responsible party risk and Fund risk.

We considered whether to adjust the limits more frequently than every three years. A triennial adjustment period affords adequate time for rulemaking, including time required for necessary interagency coordination on future adjustments to the facility limits of liability. The Coast Guard will, therefore as a general rule, use the three year adjustment period in the future. We have, however, clarified in § 138.240 that the Coast Guard has discretion to adjust the limits of liability before three years. For example, if a new limit of liability is established by Congress for a particular source category, the new statutory limit of liability might be adjusted for inflation sooner than three years after the date the new limit of liability was enacted in order to put the new limit of liability on the same inflation-adjustment cycle used for all other source categories.

Thus, once all of the OPA 90 source categories are on the same adjustment schedule, and except in instances when increases in the Annual CPI-U over any three-year period are not significant (*i.e.*, are less than 3 percent increase in the Annual CPI-U) or if the Coast Guard determines in its discretion that an adjustment is needed before three years, we will generally calculate future adjustments to the limits of liability using the cumulative percent change in the Annual CPI-U for the previous three available years. For example, in 2015 (assuming a significant increase in the Annual CPI-U after the 2012

adjustments), we will calculate the Annual CPI-U change using the 2011 Annual CPI-U as the "Previous Period" value and the 2014 Annual CPI-U as the "Current Period" value.

(c) *What if the "significant increases" threshold is not met?*

The next set of CPI adjustments to the limits of liability, currently scheduled for 2012, will put all Coast Guard source categories regulated under OPA 90, including the MTR onshore facilities, on the same adjustment schedule regardless of whether the significant increase threshold is met. Thereafter, for any three-year period in which the percent change in the Annual CPI-U is not significant in that the cumulative change is less than 3 percent over three years, we will publish a notice of no adjustment in the **Federal Register**. In such event, we will re-evaluate the percent increase in the Annual CPI-U in each subsequent year until the cumulative percent change in the Annual CPI-U from the last adjustment is 3 percent or greater. We will then base the adjustment on the Annual CPI-U change since the last adjustment.

For instance, if in 2015 the cumulative percent change in the Annual CPI-U from 2011 to 2014 is 2 percent, we will publish a notice of no adjustment in the **Federal Register** in 2015. The following year in 2016, if the 3 percent change threshold is met, we will publish adjustments to all of the limits of liability for Coast Guard source categories based on the Annual CPI-U percent change from 2011, as the "Previous Period", to 2015, as the "Current Period". The next adjustment will, in that case, be no more than three years later in 2019, again assuming that the cumulative percentage increase between the 2015 Annual CPI-U and the 2018 Annual CPI-U is significant.

8. What procedures does the Coast Guard plan to use to promulgate subsequent inflation adjustments to the OPA 90 limits of liability?

This rulemaking has provided the public the opportunity to comment on the inflation index (Annual CPI-U), the significance threshold, and the calculation methodology for the first, and subsequent, CPI adjustments to the limits of liability for Coast Guard source categories. The Coast Guard intends to coordinate future inflation increases to the OPA 90 limits of liability with the other delegated agencies (DOT, EPA and DOI) to ensure consistency, and will consider approaches for streamlining the process at that time.

C. Discussion of Comments and Changes

This section discusses the comments we received on the CPI NPRM. This includes a discussion of one clarification we have made, in response to a comment, concerning the frequency of limit of liability adjustments. We also discuss CPI-related comments we received in letters submitted to the related COFR Rule docket. Finally, we discuss a comment we received that was submitted to the docket after the public comment period on the CPI NPRM and the resulting amendments to clarify applicability of the OPA 90 single-hull tank vessel limits of liability. (See Docket No. USCG-2008-0007-0013; see also, Docket No. USCG-2008-0007-0014.)

1. Public Comments on the CPI NPRM

We received four letters with seven comments on the CPI NPRM. One letter was submitted anonymously. The other letters were from a state environmental agency and two liquefied natural gas (LNG) Deepwater Port developers. Three of the four letters raised issues beyond the scope of this rulemaking.

The anonymous commenter suggested that the Coast Guard increase oil spill fines by 5,000 percent and hold oil company executives personally liable for oil spills. This comment is beyond the scope of this rulemaking. The primary purpose of this rulemaking is to implement the statutorily-mandated inflation increases to the OPA 90 limits of liability. Any other increase to the limits of liability would have to be authorized by Congress. Moreover, the OPA 90 limits of liability only concern the liability of responsible parties for OPA 90 removal costs and damages. The OPA 90 limits of liability and this regulation do not limit, or otherwise affect or concern, the amount of fines and penalties or other liability of responsible parties under other provisions of law.

The two LNG Deepwater Port developers commented that they intend to seek facility-specific regulatory adjustments to the OPA 90 limits of liability for their planned LNG Deepwater Ports under 33 U.S.C. 2704(d)(2). The comment asked that those new regulatory limits be set forth in the reserved paragraph at 33 CFR 138.230(B)(2)(ii). The Coast Guard agrees that 33 CFR 138.230(B)(2)(ii) has been reserved for facility-specific regulatory limits that may be established in the future under 33 U.S.C. 2704(d)(2). This comment, however, raises issues that go beyond the scope of this rulemaking. This rulemaking does not

concern requests for facility-specific regulatory limits of liability under 33 U.S.C. 2704(d)(2). This rulemaking is instead concerned with implementing the statutorily-mandated inflation adjustments to the existing OPA 90 limits of liability and ensuring that they are correctly applied.

The LNG Deepwater Port developers also commented that the OPA 90 limit of liability applicable to Deepwater Ports generally should not be adjusted for inflation in respect to LNG Deepwater Ports. The commenters made several points in this respect. First, they argued that the threat of an oil spill from an LNG Deepwater Port is much less than from an oil Deepwater Port and that the regulatory limit of liability established under 33 U.S.C. 2704(d)(2) for LOOP, the only oil Deepwater Port currently in operation, is lower. They also pointed out that the Coast Guard had previously determined that two LNG Deepwater Ports currently in operation did not trigger OPA 90 for the purpose of establishing new liability limits under 33 U.S.C. 2704(d)(2), and asked that this determination be expanded to all LNG Deepwater Ports. Finally, they argued that the limits of liability should not be adjusted in respect to LNG Deepwater Ports until LNG Deepwater Ports subject to OPA 90 are placed in operation.

We disagree with this comment. OPA 90, at 33 U.S.C. 2704(a)(4), sets forth a single limit of liability that applies to all Deepwater Ports regardless of type, whether oil or LNG. OPA 90 further requires that the Deepwater Port limit of liability be adjusted for significant increases in the CPI.

The Coast Guard acknowledges that the United States has previously determined that LNG, other than natural gas distillates and condensate, is not "oil" as that term is defined under OPA 90. (*See, e.g.*, 63 FR 42699, Aug. 11, 1998; 67 FR 47041, Jul. 17, 2002.) In addition, the Coast Guard has determined, in the context of three applications for liability limit adjustments under 33 U.S.C. 2704(d)(2), that those particular Deepwater Ports were not OPA 90 "facilities" as defined at 33 U.S.C. 2701(9).⁵ This was because

⁵ The three Deepwater Ports in question are: (1) Excelerate Energy/Open Gulf Gateway (formerly the El Paso Energy Bridge)—submerged turret loading buoy and metering platform, only uses lubricating oil for emergency generator (December 15, 2003); (2) Excelerate Energy/Northeast Gateway Deepwater Port—two turret-loading buoys, fueled by natural gas, with a small amount of lubricating oil applied to lubricate umbilical lines used to operate valves (May 4, 2007); (3) Port Dolphin Energy LLC Deepwater Port—same design as Northeast Gateway, periodic application of hydraulic oil to

the subject Deepwater Ports were not designed, constructed or operated to use structures, equipment, or devices for "exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil."⁶

Those case-specific determinations were expressly based on the design and operation plans presented by the applicants, and the determinations will change if any oil is stored on the ports or if their design or operations otherwise change such that the OPA 90 "facility" definition applies. Moreover, other LNG Deepwater Port designs may well involve more extensive manned operations involving the storage, handling, transferring or transporting of various oils (*e.g.*, natural gas distillates, fuel oil and oil for service equipment or devices used to operate the ports). Whether any LNG Deepwater Port, as designed, constructed, or subsequently operated, is an OPA "facility" will therefore continue to be determined on a case-by-case basis.

The state environmental agency generally applauded the Coast Guard in implementing CPI increases to limits of liability, and expressed support for similar adjustments in the future for the MTR onshore facility limit of liability. The state also expressed support for use of the Annual CPI-U to calculate the percent changes in the CPI, agreeing that it is likely to provide better consistency and simplicity over time than a monthly period CPI-U.

The state recommended that the rule authorize adjustments to the limits of liability for vessels and Deepwater Ports for periods of less than 3 years where the CPI-U increases significantly over any one or two year period. Specifically, the state recommends amending section 138.240(b) to require the Director, National Pollution Funds Center (NPFC), to evaluate changes in the CPI-U annually, rather than every 3 years, and increase the limits of liability whenever the percent change in the CPI-U reaches or exceeds the

lubricate umbilical lines used to operate valves (August 6, 2008).

OPA 90 defines "facility", at 33 U.S.C. 2701(9) as "any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes."

⁶ At this time, there are only three Deepwater Ports in operation: one oil Deepwater Port (LOOP) and two LNG Deepwater Ports (Gulf Gateway Energy Bridge and Northeast Gateway). Because of the determinations that the two LNG Deepwater Ports do not meet the OPA 90 definition of facility, and unless conditions change at the two operating LNG ports, LOOP is the only existing Deepwater Port affected by this rulemaking.

significance threshold of 3 percent or greater.

We disagree that it is necessary, required by OPA 90, or appropriate for the Coast Guard to establish a system for more frequent routine adjustments to the limits of liability in this rulemaking. The triennial adjustment schedule provided for in this rulemaking is consistent with the discretion accorded by OPA 90. It also reflects several practical considerations, including the time necessary to develop regulations, and the time required for necessary interagency coordination. Moreover, the Coast Guard can consider the feasibility of more frequent periods for routine inflation adjustments in the future. Even so, in response to this comment, we have clarified in § 138.240(b) that the Coast Guard has discretion to adjust the limits of liability more frequently than every 3 years. This might be appropriate if, for example, new statutory limits of liability are enacted for a particular source category in order to adjust the limits of liability for that category on the same schedule with all other sources.

2. Public Comments on the Prior COFR Rule Relating to CPI Adjustments to Limits of Liability

In addition to the letters submitted to the docket for this rulemaking, three letters with five comments concerning CPI adjustments to the OPA 90 limits of liability were submitted to the rulemaking docket for the related COFR Rule NPRM. (*See* Docket Nos. USCG-2005-21780-0007, -0008 and -0019. For ease of reference, these comments have also been posted to the docket for this rulemaking. *See* Docket Nos. USCG-2008-0007-0009, -0010 and -0015.) Those comments were beyond the scope of the COFR Rule, which focused on the OPA 90 requirements, under 33 U.S.C. 2716, for vessel responsible parties to establish and maintain evidence of financial responsibility. The comments are, therefore, addressed here.

The comments were submitted by a private individual, an association of oil spill regulatory agencies from Alaska, British Columbia, Washington, Oregon, Hawaii and California, and a state environmental agency. All of the commenters sought increases to the OPA 90 limits of liability for inflation.

The private individual asked the Coast Guard to adjust the OPA 90 limits of liability for inflation, to ensure polluters bear the cost of oil spill cleanup and reimbursement of economic loss to communities caused by their actions. The association of oil spill regulatory agencies submitted a similar comment noting that the COFR

Rule NPRM did not “increase (by the CPI since 1990) the limits of liability for facilities under Coast Guard’s jurisdiction.”

These comments have been addressed in part by this rulemaking. Specifically, this rulemaking makes inflation adjustments to the limits of liability for all vessels and for one category of “facility”, Deepwater Ports. The limit of liability for the other category of “facility” under the Coast Guard’s jurisdiction, MTR onshore facilities, will be adjusted for inflation in the next cycle of inflation adjustments to the limits of liability as part of a coordinated set of rulemakings with EPA, DOT, and DOI that will cover all source categories subject to OPA 90.

Also, in response to the association’s assumption that the adjustments would be from 1990, we note that this preamble, at paragraph V.B.5, above, and the CPI NPRM explain our decision to use a 2006 baseline year for the adjustments, instead of 1990. We received no comment on the CPI NPRM from the association or from any other commenter concerning this approach. This interim rule therefore establishes 2006 as the baseline for all Coast Guard source categories other than LOOP, including for MTR onshore facilities.

The association also noted that the COFR Rule NPRM did not propose increases to the limits of liability for vessels, including tank barges, by the CPI since 2006 as is required by DRPA. This comment is addressed by this rulemaking. Specifically, as required by DRPA, this rulemaking adjusts the limits of liability for all vessels, including tank barges, for inflation since 2006, the year the limits of liability were last amended by Congress.

One commenter, the state environmental agency that also commented on the NPRM for this rulemaking, noted that the limits of liability for non-tank vessels should be increased. This comment is addressed by this rulemaking to the extent authorized by OPA 90. Specifically, as mandated by 33 U.S.C. 2704(d), this rulemaking increases the limits of liability for all vessels with limits of liability under OPA 90, to reflect significant increases in the CPI. This includes inflation adjustments to the limits of liability applicable to non-tank vessels. Any other increase to the limits of liability for non-tank vessels would have to be authorized by Congress.

The same commenter stated that the COFR Rule NPRM failed to address the issue of limits of liability for oil-handling facilities. Reading the comment as expressing support for inflation adjustments to the limits of

liability for facilities, the comment is addressed in part by this rulemaking. Specifically, this rulemaking adjusts the limits of liability for inflation for all vessels and for one category of facilities, Deepwater Ports. The limit of liability for the other category of facility under the Coast Guard’s jurisdiction, MTR onshore facilities, including the above-mentioned oil-handling facilities, will be adjusted for inflation in the next cycle of inflation adjustments to the limits of liability, as part of a coordinated set of rulemakings with EPA, DOI and DOT, that will cover all facilities subject to OPA 90.

3. Single-Hull Tank Vessel Clarifying Changes and Request for Comment

In February 2009, after the CPI NPRM public comment period closed on November 24, 2008, the rulemaking team was made aware of an off-the-record comment from a COFR guarantor concerning applicability of the single-hull tank vessel limits of liability in 33 CFR part 138, subpart B, to LNG and liquefied petroleum gas (LPG) tank vessels (Docket No. USCG–2008–0007–0013). Initially the comment was thought to raise questions regarding compliance with the final COFR Rule. This is because a similar question, in respect to mobile offshore drilling units (MODUs), some of which may not have oil cargo tanks, was submitted as a comment to the COFR Rule NPRM (Docket No. USCG–2005–21780–0013). Further analysis, however, revealed that these comments raised a substantive and persuasive issue that was not adequately addressed in the COFR Rule.

Specifically, the regulatory text in 33 CFR part 138, subpart B, as adopted in the COFR Rule and the further amendments proposed in the CPI NPRM, inadvertently applied the single-hull tank vessel limits of liability to vessels that do not carry oil cargo.⁷ We

⁷ The DOT’s hazardous material transportation regulations (49 CFR 172.101) list LNG (methane) and LPG (petroleum gases) as hazardous materials. LNG/LPG vessels, therefore, are “tank vessels” by definition under OPA 90, 33 U.S.C. 2701(34) (*i.e.*, “a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue”), and are subject to the OPA 90 limits of liability and COFR requirements in 33 CFR part 138 applicable to tank vessels. As noted above, however, Coast Guard, EPA and Minerals Management Service have determined that, with the exception of natural gas distillates and condensate, LNG and LPG are not “oil”. (*See, e.g.*, 61 FR 9264, at 9266–68, March 7, 1996 (1996 COFR Rule preamble); 62 FR 13991, March 25, 1997, and 30 CFR 254.1 and 254.6 (Offshore Facility Spill Prevention Rule, “Who must submit a spill-response plan?” and definition of “oil”); 62 FR 14052, March 25, 1997 (Offshore Facility Financial Responsibility Rule); 63 FR 42699, August 11, 1998, and 30 CFR 253.3 (Offshore Facility Financial Responsibility Rule definition of “oil”); 67 FR

determined that this is inconsistent with the statutory scheme, including the single-hull phase-out requirements of Title IV of OPA 90 and 33 CFR part 157.⁸ Those requirements only apply to a tank vessel that is “constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue” (referred to in this preamble as “oil cargo tank vessels”). (*See* 46 U.S.C. 3703a(a)(1)).

Clarifying this issue requires minor amendments to the regulatory text in 33 CFR part 138, subpart B, that were not discussed in the CPI NPRM. Therefore, in order to adjust the limits of liability for inflation as required by 33 U.S.C. 2704(d), while also addressing the hull category issue, the Coast Guard is publishing this rulemaking as an interim rule, and invites the public to comment on the proposed hull category clarifications. The following discussion outlines the legal basis for clarifying the hull category provisions.

OPA 90, as amended, at 33 U.S.C. 2704(a)(1)(A) and (B), divides the tank vessel limits of liability into two tank vessel hull categories: (A) single-hull tank vessels, including a single-hull vessel fitted with double sides only or a double bottom only, and (B) other tank vessels.⁹

OPA 90 defines “tank vessel” as “a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue” (33 U.S.C. 2701). Title I of OPA 90 could, therefore, be read to impose the single-hull limits of liability on both oil and hazardous material cargo tank vessels. The context of the DRPA amendments that increased the vessel limits of liability and created the distinction in OPA 90 Title I between single-hull and other tank vessels, however, is helpful in understanding that the single-hull limits of liability were intended to apply only to oil cargo tank vessels.

The catalyst for DRPA was the 2004 single-bottom, double-sided ATHOS I oil cargo tank vessel spill incident on the Delaware River, where the limit of liability amounted to about 20 percent of the estimated removal costs and

47042, July 17, 2002 (Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities); 73 FR 74236, December 5, 2008, and 40 CFR 112.2 (Onshore Facility Spill Prevention Rule).)

⁸ Section 4115 of OPA 90 added a new section to the U.S. Code, 46 U.S.C. 3703a. That section requires a single-hull oil cargo tank vessel owner to remove the vessel from bulk oil service on a specific date, depending on the vessel’s gross tonnage, build date, and hull configuration.

⁹ These two categories are carried forward by reference in 33 U.S.C. 2704(a)(1)(C). (*See* 33 U.S.C. 2704(a)(1)(C)(i)(I) and (C)(ii)(I) (single-hull tank vessel limits); 33 U.S.C. 2704(a)(1)(C)(i)(II) and (C)(ii)(II) (other tank vessel limits).)

damages resulting from the spill. In 2006, Congress increased the limits of liability for vessels other than single-hull tank vessels by approximately 50 percent to reflect CPI increases since enactment of OPA 90. But, in recognition of the higher risk of oil spills from single-hull oil cargo tank vessels, Congress decided to increase the limits of liability for single-hull tank vessels (including a tank vessel fitted with double sides only or a double bottom only) by approximately 150 percent. Therefore, the single-hull category of OPA 90 is concerned with those vessels that were the focus of Congressional concern, *i.e.*, oil cargo tank vessels.

Moreover, as previously noted, single-hull vessels are the particular concern of OPA 90 Title IV and the Coast Guard's implementing regulations at 33 CFR part 157. Those provisions mandate a phase-out of single hulls for any tank vessel that is "constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue", *i.e.*, for any oil cargo tank vessel. Any such vessel must be taken out of service or comply by specified deadlines with the Title IV and part 157 technical requirements for double hulls.

It is, therefore, reasonable to view the single-hull vessel limits of liability in Title I of OPA 90, as applying only to tank vessels that are subject to the single-hull phase-out requirements of Title IV (*i.e.*, to any tank vessel that is "constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue", where the hull of the vessel is single, including a double bottom or double sides only). It is this category of tank vessel that Congress was concerned with as presenting a greater threat of oil pollution, and thereby deserving of phase-out regulation and higher limits of liability.

By the same token, a tank vessel that is not constructed or adapted to carry, and that does not in fact carry, oil in bulk as cargo or cargo residue, does not have to meet the single-hull phase-out requirements of OPA 90 Title IV and 33 CFR part 157. It is, therefore, reasonable to view the "other" category of tank vessel limits of liability under OPA 90 Title I as applying to such vessel (*i.e.*, to any tank vessel that is not an oil cargo tank vessel).

The Coast Guard is clarifying the regulatory text to reflect this statutory scheme. Specifically, we have deleted the definition of "double hull" in § 138.220 and all references to "double hull" in § 138.230. We have also amended the definition of "single-hull" to clarify that it is limited to a single-hull tank vessel that is "constructed or adapted to carry, or that carries, oil in

bulk as cargo or cargo residue", and that does not meet the double-hull technical standards applicable to oil cargo tank vessels contained in 33 CFR part 157.¹⁰ The Coast Guard seeks comments on these regulatory text changes.

VI. Regulatory Analyses

We developed this interim 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.

A. Regulatory Planning and Review

This interim 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. It has not been reviewed by the Office of Management and Budget under that Order. A draft Regulatory Assessment is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. A summary of the Assessment follows:

On September 24, 2008, the CPI NPRM was published (73 FR 54997) and included a supplemental Preliminary Regulatory Assessment of the proposed rule. The comment period ended on November 24, 2008. No comments were received on the Preliminary Regulatory Assessment. Prior to developing the Interim Rule Regulatory Assessment, we confirmed that the methodology and data sources contained in the Preliminary Regulatory Assessment had not changed, and the only revision since the NPRM would be an update for the newly available 2008 Annual CPI-U.

There are two regulatory costs that are expected from this interim rule:

- Regulatory Cost 1: An increased cost of liability to responsible parties of vessels and Deepwater Ports.
- Regulatory Cost 2: An increased cost for establishing and maintaining

¹⁰ Under this wording, the hull configuration of a hazardous material tank vessel will be relevant, for purposes of determining which limits of liability apply, only if the vessel is "constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue" (*e.g.*, a vessel carrying LNG distillate or condensate in bulk as cargo or cargo residue). It also would only be relevant for a MODU if the MODU is "constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue". If the vessel is not so constructed, adapted or used, it falls in the "other" tank vessel category of OPA 90 (33 U.S.C. 2704(a)(1)(B), (C)(i)(II) and (C)(ii)(II)), and qualifies for the lower limits of liability of § 138.230(a)(2) and (4). If it is constructed or adapted to carry, or does in fact carry, oil in bulk as cargo or cargo residue, the vessel hull will have to meet the double hull requirements of 33 CFR part 157 to qualify for the lower limits of liability of § 138.230(a)(2) and (4).

evidence of financial responsibility to vessel responsible parties under 33 U.S.C. 2716 and 33 CFR part 138, subpart A.

Existing Deepwater Ports are not expected to have any increased evidence of financial responsibility costs as a result of this interim rule.

1. Discussion of Regulatory Cost 1

This rulemaking could increase the dollar amount of removal costs and damages a responsible party of a vessel or Deepwater Port would be responsible to pay in the event of a discharge, or substantial threat of discharge, of oil (hereafter an "OPA 90 incident"). Regulatory Cost 1 will, however, only be incurred by a responsible party if an OPA 90 incident results in OPA 90 removal costs and damages that exceed the vessel or Deepwater Port's previous limit of liability. In any such case, the difference between the previous limit of liability amount and the new limit of liability amount established by this interim rule will be the increased cost to the responsible party.

(a) Affected Population—Vessels

Coast Guard data, as of May 2007, indicate that, for the years 1991 through 2006, 41 OPA 90 incidents involving vessels resulted in removal costs and damages in excess of the previous limits of liability (an average of approximately three OPA 90 incidents per year). For the purpose of this analysis, we assume that three OPA 90 incidents involving vessels would occur per year over a 10-year analysis period (2009–2018), with removal costs and damages reaching or exceeding the new limits of liability for vessels established by this interim rule.

(b) Affected Population—Deepwater Ports

At this time, LOOP is the only Deepwater Port in operation that is subject to OPA 90.¹¹ As previously noted, to date, LOOP has not had an OPA 90 incident that resulted in removal costs and damages in excess of LOOP's previous limit of liability of \$62 Million. However, for cost estimating purposes, we assume that one OPA 90 incident would occur at LOOP over the 10-year analysis period (2009–2018), with removal costs and damages

¹¹ As previously noted, there are only two LNG Deepwater Ports currently in operation (Gulf Gateway Energy Bridge and Northeast Gateway). The Coast Guard, however, determined that the design, construction, and operation of these LNG Deepwater Ports did not meet the definition of an OPA 90 facility under 33 U.S.C. 2701(9). (See discussion at V.C.1., above.) Therefore, unless the design, construction, and operations at the existing LNG Deepwater Ports are changed, the ports will not be affected by this interim rule.

reaching or exceeding the new limit of liability for LOOP. Assuming an OPA 90 incident at the LOOP during the next ten years is merely a conservative assumption for cost estimating purposes. If there is no OPA 90 incident at the LOOP during the next ten years, then we will have over-estimated the cost of the rulemaking.

(c) Cost Summary Regulatory Cost 1

The average annual cost of this rulemaking resulting from the three forecasted vessel OPA 90 incidents per year is estimated to be \$2.0 Million (non-discounted Dollars). The average annual cost of this rulemaking resulting from the one forecasted LOOP OPA 90 incident over 10 years is estimated to be \$2.6 Million (non-discounted Dollars). The 10-year (2009–2018) present value at a 3 percent discount rate of this regulatory cost (vessels and LOOP) is estimated to be \$40.0 Million. The 10-year (2009–2018) present value at a 7 percent discount rate of this regulatory cost (vessels and LOOP) is estimated to be \$34.2 Million.

2. Discussion of Regulatory Cost 2

Under OPA 90 (33 U.S.C. 2716) and 33 CFR part 138, subpart A, responsible parties of vessels and Deepwater Ports are required to establish and maintain evidence of financial responsibility to prove they have the ability to pay for removal costs and damages in the event of an OPA 90 incident up to their applicable limits of liability. Because this rulemaking increases the limits of liability for vessels and Deepwater Ports and, by reference, the applicable amounts of financial responsibility under 33 CFR 138.80(f), responsible parties may incur additional cost associated with the corresponding requirements for establishing and maintaining evidence of financial responsibility.

(a) Affected Population—Vessels

The rule potentially increases the cost associated with establishing financial responsibility under OPA 90 and 33 CFR part 138, subpart A, for responsible parties of vessels in two ways. Responsible parties using commercial insurance as their method of financial guaranty could incur higher insurance premiums. Responsible parties using self-insurance as their method of financial guaranty will need to seek out and acquire commercial insurance for vessels they operate if they are no longer eligible for self-insurance based on their working capital and net worth. There are approximately 17,064 vessels using commercial insurance and 741 vessels

using self-insurance methods of guaranty.

(b) Affected Population—Deepwater Ports

As previously discussed (see VI.A.1.(b), above, Affected Population—Deepwater Ports, Regulatory Cost 1), LOOP is the only Deepwater Port that would be affected by this interim rule. An increase in the LOOP limit of liability of the magnitude of this rulemaking, however, is not expected to increase the cost associated with establishing and maintaining LOOP's evidence of financial responsibility. This is because LOOP uses a facility-specific method of providing evidence of financial responsibility to the Coast Guard. Specifically, LOOP is insured under a policy issued by Oil Insurance Limited (OIL) of Bermuda up to \$150 Million per OPA 90 incident and a \$225 Million annual aggregate. The Coast Guard has historically accepted the OIL policy, along with the policy's \$50 Million minimum net worth and minimum working capital requirements, as evidence of financial responsibility. The Coast Guard does not expect that an increase in the LOOP limit of liability of the magnitude of this rulemaking would change the terms of the OIL policy, result in an increased premium for the OIL policy, or require LOOP to have higher minimum net worth or working capital requirements.

(c) Cost Summary—Regulatory Cost 2

For purposes of calculating Regulatory Cost 2, we assume that this rulemaking will cause the insurance premiums for vessels that are now commercially insured to increase by 5 percent from current levels. We also assume that 2 percent of the vessel responsible parties using self-insurance to provide evidence of financial responsibility will migrate to commercial insurance. Depending on the particular year and the discount rate used, annual costs of this interim rule range from \$1.7 Million to \$3.4 Million per year. The 10-year (2009–2018) present value, at a 3 percent discount rate, of this regulatory cost is estimated to be between \$27.8 Million and \$28.6 Million. The 10-year (2009–2018) present value, at a 7 percent discount rate, of this regulatory cost is estimated to be between \$23.8 Million and \$24.6 Million. The ranges reflect two vessel profiles that were developed and analyzed separately to account for the uncertainty, due to data gaps, of when existing single-hulled tank vessels would be phased out.

3. Total Cost—Regulatory Cost 1 + Regulatory Cost 2

Depending on the particular year and the discount rate used, annual costs of this interim rule range from \$4.2 Million to \$7.9 Million per year. The 10-year present value of the total cost of this interim rule (Regulatory Cost 1 + Regulatory Cost 2) at a 3 percent discount rate is estimated to be between \$67.8 Million and \$68.6 Million. The 10-year present value of the total cost of this interim rule (Regulatory Cost 1 + Regulatory Cost 2) at a 7 percent discount rate is estimated to be between \$58.0 Million and \$58.8 Million.

4. Benefits

With respect to benefits, this interim rule is expected to:

- Ensure that the real value of the OPA 90 limits of liability keep pace with inflation over time;
- Preserve the polluter-pays principle embodied in OPA 90 and, thereby, ensure that limited Fund resources can be optimally utilized in responding to future incidents; and
- Result in a slight reduction in substandard shipping in United States waterways and ports because insurers would be less likely to insure substandard vessels to this new level of liability.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this interim 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.

Based on the threshold analysis conducted in the CPI NPRM, we determined that an Initial Regulatory Flexibility Analysis was not necessary for the proposed rule. The comment period ended on November 24, 2008. No comments were received with respect to any aspects of the CPI NPRM that might concern small entities. Prior to developing the interim rule, we confirmed that the methodology and data sources contained in the threshold analysis had not changed, and the only revision since the NPRM would be an update for the newly available 2008 Annual CPI–U.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim rule will not have a significant economic impact on a substantial

number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this interim rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this interim rule would economically affect it.

C. 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 would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Rachel Hopp, National Pollution Funds Center, Coast Guard, telephone 202–493–6753. The Coast Guard will not retaliate against small entities that question or complain about this interim rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This interim rule results in a revision of an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Consumer Price Index Adjustments of Oil Pollution Act of

1990 Limits of Liability—Vessels and Deepwater Ports.

OMB Control Number: 1625–0046.

Summary of the Collection of Information: Not later than 90 days after the effective date of the interim rule, responsible parties for vessels will be required under 33 CFR part 138, subpart A, § 138.85 to establish evidence of financial responsibility to the applicable amounts determined under 33 CFR part 138, subpart A, § 138.80(f), based on the limits of liability as adjusted by this rulemaking.

Need for Information: This information collection is necessary to enforce the evidence of financial responsibility requirements at 33 CFR part 138, subpart A. Without this collection, it would not be possible for the Coast Guard to know which responsible parties are in compliance with the financial responsibility applicable amounts determined under 33 CFR part 138, subpart A, and which are not. Vessels not in compliance are subject to the penalties provided in 33 CFR 138.140.

Proposed Use of Information: The Coast Guard uses this information to verify that vessel responsible parties have established evidence of financial responsibility to reflect the financial responsibility applicable amounts determined under 33 CFR part 138, subpart A, based on the limits of liability as adjusted by this rulemaking.

Description of the Respondents: Responsible parties and guarantors of vessels that require COFRs under 33 CFR part 138, Subpart A.

Number of Respondents: There are approximately 900 United States vessel responsible parties, 9,000 foreign vessel responsible parties, and 100 vessel guarantors that submit information to the Coast Guard.

Frequency of Response: This is a one-time submission occurring not later than 90 days after the effective date of the interim rule. Subsequent submissions that may be required as a result of regulatory changes to limits of liability under 33 U.S.C 2704(d) are not included here because they will be addressed in future rulemakings.

Burden of Response:

Increased burden associated with reporting requirements:
10,000 vessel responsible parties and guarantors × 1.0 hours per response = 10,000 hours

Estimate of Total Annual Burden: We calculated the burden using the “All Occupations” mean National average hourly wage of \$19.21 per hour, published by BLS in the August 2007 “National Compensation Survey:

Occupational Earnings in the United States”. In addition, BLS data shows that total employee benefits are approximately 30 percent of total compensation (wages + benefits). Therefore, since wages account for 70 percent of total compensation, total compensation per hour is \$27.44 (\$19.21/0.7) and benefits are \$8.23.

We then multiplied the number of net burden hours by the burdened labor rate calculated above (rounded to the nearest dollar, *i.e.* \$27 per hour).

Increased burden associated with the reporting requirements:
10,000 hours × \$27 per hour = \$270,000

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(c)), we will submit a copy of this interim rule and an information collection request to the Office of Management and Budget (OMB) for its review of the collection of information under 33 CFR part 138, subpart A, § 138.85.

In the NPRM we requested public comment on the collection of information, and received none. We again ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information under 33 CFR part 138, subpart A, § 138.85, submit them both to OMB and to the docket for this rulemaking where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. The Coast Guard will not enforce the information collection request triggered by this rulemaking until it is approved by OMB. We will publish a document in the **Federal Register** informing the public of OMB's decision to approve, modify, or disapprove the collection.

E. 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 interim rule under that Order and have determined that it does not have implications for federalism.

F. 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 interim rule will not result in such an expenditure, we do discuss the effects of this interim rule elsewhere in this preamble.

G. Taking of Private Property

This interim 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.

H. Civil Justice Reform

This interim 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.

I. Protection of Children

We have analyzed this interim rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This interim 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.

J. Indian Tribal Governments

This interim 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.

K. Energy Effects

We have analyzed this interim 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.

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

M. Environment

We have analyzed this interim rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (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 interim rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) of the Instruction. This interim rule sets forth the methodology the Coast Guard uses to increase OPA 90 limits of liability to reflect significant increases in the CPI, and makes the first set of statutorily-mandated inflation increases to the OPA 90 limits of liability for vessels and Deepwater Ports. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 138

Hazardous materials transportation, Insurance, Limits of liability, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 138 as follows:

PART 138—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS) AND OPA 90 LIMITS OF LIABILITY (VESSELS AND DEEPWATER PORTS)

■ 1. The authority citation for part 138 is revised to read as follows:

Authority: 33 U.S.C. 2704; 33 U.S.C. 2716, 2716a; 42 U.S.C. 9608, 9609; Sec. 1512 of the Homeland Security Act of 2002, Public Law 107–296, Title XV, Nov. 25, 2002, 116 Stat. 2310 (6 U.S.C. 552(d)); E.O. 12580, Sec. 7(b), 3 CFR, 1987 Comp., p. 198; E.O. 12777, Sec. 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, 68 FR 10619, 3 CFR, 2004 Comp., p.166; Department of Homeland Security Delegation Nos. 0170.1 and 5110. Section 138.30 also issued under the authority of 46 U.S.C. 2103 and 14302.

■ 2. Revise Subpart B to read as follows:

Subpart B—OPA 90 Limits of Liability (Vessels and Deepwater Ports)

Sec.

138.200	Scope.
138.210	Applicability.
138.220	Definitions.
138.230	Limits of liability.
138.240	Procedure for calculating limit of liability adjustments for inflation.

§ 138.200 Scope.

This subpart sets forth the limits of liability for vessels and deepwater ports under Title I of the Oil Pollution Act of 1990, as amended (33 U.S.C. 2701, *et seq.*) (OPA 90), as adjusted under Section 1004(d) of OPA 90 (33 U.S.C. 2704(d)). This subpart also sets forth the method for adjusting the limits of liability by regulation for inflation under Section 1004(d) of OPA 90 (33 U.S.C. 2704(d)).

§ 138.210 Applicability.

This subpart applies to you if you are a responsible party for a vessel as defined under Section 1001(37) of OPA 90 (33 U.S.C. 2701(37)) or a deepwater port as defined under Section 1001(6) of OPA 90 (33 U.S.C. 2701(6)), unless your OPA 90 liability is unlimited under Section 1004(c) of OPA 90 (33 U.S.C. 2704(c)).

§ 138.220 Definitions.

(a) As used in this subpart, the following terms have the meaning as set forth in Section 1001 of OPA 90 (33 U.S.C. 2701): *deepwater port*, *gross ton*, *liability*, *oil*, *responsible party*, *tank vessel*, and *vessel*.

(b) As used in this subpart—

Annual CPI-U means the annual “Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All items, 1982–84=100”, published by the U.S.

Department of Labor, Bureau of Labor Statistics.

Director, NPFC means the head of the U.S. Coast Guard, National Pollution Funds Center (NPFC).

Single-hull means the hull of a tank vessel that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, that is not a double hull as defined in 33 CFR part 157. *Single-hull* includes the hull of any such tank vessel that is fitted with double sides only or a double bottom only.

§ 138.230 Limits of liability.

(a) Vessels. The OPA 90 limits of liability for vessels are—

(1) For a single-hull tank vessel greater than 3,000 gross tons, the greater of \$3,200 per gross ton or \$23,496,000;

(2) For a tank vessel greater than 3,000 gross tons, other than a single-hull tank vessel, the greater of \$2,000 per gross ton or \$17,088,000.

(3) For a single-hull tank vessel less than or equal to 3,000 gross tons, the greater of \$3,200 per gross ton or \$6,408,000.

(4) For a tank vessel less than or equal to 3,000 gross tons, other than a single-hull tank vessel, the greater of \$2,000 per gross ton or \$4,272,000.

(5) For any other vessel, the greater of \$1,000 per gross ton or \$854,400.

(b) Deepwater ports. The OPA 90 limits of liability for deepwater ports are—

(1) For any deepwater port other than a deepwater port with a limit of liability established by regulation under Section 1004(d)(2) of OPA 90 (33 U.S.C. 2704(d)(2)) and set forth in paragraph (b)(2) of this section, \$373,800,000;

(2) For deepwater ports with limits of liability established by regulation under Section 1004(d)(2) of OPA 90 (33 U.S.C. 2704(d)(2)):

(i) For the Louisiana Offshore Oil Port (LOOP), \$87,606,000; and

(ii) [Reserved].

(c) [Reserved].

§ 138.240 Procedure for calculating limit of liability adjustments for inflation.

(a) *Formula for calculating a cumulative percent change in the Annual CPI-U.* The Director, NPFC, calculates the cumulative percent change in the Annual CPI-U from the year the limit of liability was established, or last adjusted by statute or regulation, whichever is later (*i.e.*, the Previous Period), to the most recently published Annual CPI-U (*i.e.*, the Current Period), using the following escalation formula:

$$\text{Percent change in the Annual CPI-U} = \frac{[(\text{Annual CPI-U for Current Period} - \text{Annual CPI-U for Previous$$

$$\text{Period}) \div \text{Annual CPI-U for Previous Period}] \times 100.$$

This cumulative percent change value is rounded to one decimal place.

(b) *Significance threshold.* Not later than every three years from the year the limits of liability were last adjusted for inflation, the Director, NPFC, will evaluate whether the cumulative percent change in the Annual CPI-U since that date has reached a significance threshold of 3 percent or greater. For any three-year period in which the cumulative percent change in the Annual CPI-U is less than 3 percent, the Director, NPFC, will publish a notice of no inflation adjustment to the limits of liability in the **Federal Register**. If this occurs, the Director, NPFC, will recalculate the cumulative percent change in the Annual CPI-U since the year in which the limits of liability were last adjusted for inflation each year thereafter until the cumulative percent change equals or exceeds the threshold amount of 3 percent. Once the 3-percent threshold is reached, the Director, NPFC, will increase the limits of liability, by regulation, for all source categories (including any new limit of liability established by statute or regulation since the last time the limits of liability were adjusted for inflation) by an amount equal to the cumulative percent change in the Annual CPI-U from the year each limit was established, or last adjusted by statute or regulation, whichever is later. Nothing in this paragraph shall prevent the Director, NPFC, in the Director's sole discretion, from adjusting the limits of liability for inflation by regulation issued more frequently than every three years.

(c) *Formula for calculating inflation adjustments.* The Director, NPFC, calculates adjustments to the limits of liability in § 138.230 of this part for inflation using the following formula:

$$\text{New limit of liability} = \text{Previous limit of liability} + (\text{Previous limit of liability} \times \text{percent change in the Annual CPI-U calculated under paragraph (a) of this section}), \text{ then rounded to the closest } \$100.$$

(d) [Reserved].

Dated: June 25, 2009.

William R. Grawe,

Acting Director, National Pollution Funds Center, United States Coast Guard.

[FR Doc. E9-15563 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0489]

RIN 1625-AA11

Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) on the waters of Oregon Inlet, North Carolina (NC). The RNA is needed to protect maritime infrastructure and the maritime public during fender repair work on the Herbert C. Bonner Bridge.

DATES: This rule is effective from 8 p.m. on June 22, 2009, through 8 p.m. on July 31, 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-2009-0489 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0489 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 two locations: 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, and at Coast Guard Sector North Carolina, 2301 E Fort Macon Rd, Atlantic Beach, NC, 28512, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247-4525, e-mail Stephen.W.Lyons2@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect bridge repair workers and the maritime public from the hazards associated with this maintenance project. Fendering system repair workers will be on scaffolding in the navigation channel underneath the bridge. Vessels transiting the channel could knock the workers off the scaffolding and into the water. Likewise vessels could sustain damage by striking the scaffolding. It is imperative an RNA is established to complete and finalize the fender repair work on the bridge. Delaying fendering repair work on the bridge to complete an NPRM is impractical, unnecessary, and contrary to the public interest. For the safety concerns noted, it is in the public interest to have this regulation in place during the construction. In addition, the necessary information to determine the impact of this construction on the maritime public was not provided with sufficient time to publish an NPRM. The Coast Guard received notice from the contractor performing construction on the bridge that the fender repair work will not be completed by June 5, 2009, as originally planned, due to unforeseen circumstances.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the public's safety. It is imperative an RNA is established immediately during the fender repair work on the bridge.

Background and Purpose

The State of North Carolina Department of Transportation awarded a contract to Marine Technologies Inc. of Baltimore, MD to perform repair work on the Herbert C. Bonner Bridge located in Oregon Inlet, NC. The contract is for the repair of the existing fender system

that protects the bridge piers located on either side of the navigation channel from vessel allision. The fender repairs began on April 16, 2009 and were initially scheduled to continue through June 5, 2009. However, the repairs were not completed by June 5, 2009. The fender repair work will continue from June 5, 2009, through July 2009. The contractor will utilize scaffolding hanging from the fender system to perform and complete the repair work. During periods of work, the scaffolding will reduce the available horizontal clearance of the main navigational channel to 124'. Because of this construction, vessels over a certain size will be limited in their ability to transit the regulated area as described below.

Discussion of Rule

The RNA will encompass the area of the main navigational channel directly under the Herbert C. Bonner Bridge. All vessels of 100 gross tons and greater are not permitted to transit the waterway unless the vessel asks the District Commander or his representative for permission to transit. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number 252-47-4570.

Any vessel transiting the regulated area must do so at a no-wake speed during the effective period. Nothing in this proposed rule negates the requirement to operate at a safe speed as provided in the Navigational Rules and Regulations.

Regulatory Analyses

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

Regulatory Planning and Review

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

Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The regulated navigation area will be in effect for a limited duration of time, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) vessels of 100 gross tons or greater may be granted permission to transit the area by the

District Commander or his representative.

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. Although the regulated area will apply to the waters of the Oregon Inlet, the area will not have significant impact on small entities because the area will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of

compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such 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.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B, Figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves establishing, disestablishing, or changing a regulated navigation area. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3307; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0489 to read as follows:

§ 165.T05–0489 Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC.

(a) Definitions. For the purposes of this section:

District Commander means the Commander, Fifth Coast Guard District.

Designated Representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, Fifth U.S. Coast Guard District to act as a designated representative on his behalf.

(b) Location. The following area is a regulated navigation area: All waters of Oregon Inlet, between the fendered spans of the Herbert C. Bonner Bridge.

(c) Regulations. (1) The general regulations governing regulated navigation areas found in § 165.13 of this part apply to the regulated navigation area described in paragraph (b) of this section.

(2) All vessels of 100 gross tons and greater are not permitted to transit the regulated area without permission from the District Commander or his representative. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number (252) 247–4570.

(3) Any vessel transiting the regulated area must do so at a no-wake speed during the effective period. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the District Commander or his representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) Enforcement period. This section will be enforced from 8 p.m. on June 22, 2009, through 8 p.m. on July 31, 2009, unless cancelled earlier by the District Commander or designated representative.

Dated: June 19, 2009.

P.B. Trapp,

*Captain, U.S. Coast Guard Acting
Commander, Fifth Coast Guard District.*

[FR Doc. E9-15577 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF COMMERCE

**United States Patent and Trademark
Office**

37 CFR Part 1

[Docket No.: PTO-P-2009-0025]

RIN 0651-AC34

**July 2009 Revision of Patent
Cooperation Treaty Procedures**

AGENCY: United States Patent and
Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that take effect on July 1, 2009. These amendments result in a change to the procedure under the PCT whereby applicants may make amendments to the claims in an international application.

DATES: *Effective Date:* The changes to 37 CFR 1.485 are effective on July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Richard R. Cole, Senior Legal Examiner, Office of PCT Legal Administration (OPCTLA) directly by telephone at (571) 272-3281, or by facsimile at (571) 273-0459.

SUPPLEMENTARY INFORMATION: During the September 2008 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted various amendments to the Regulations under the PCT that enter into force on July 1, 2009. The amended PCT Regulations were published in the PCT Gazette of December 11, 2008 (38/2008), at pages 166-167. The amendments include provisions which modify the procedures for making amendments to the claims in an international application.

The Patent Cooperation Treaty (PCT) enables an applicant to file one application, "an international application" or a "PCT application," in a standardized format in a PCT Receiving Office and have that application acknowledged as a regular

national or regional filing in as many Contracting States to the PCT as the applicant desires. The requirements for PCT applications are specified in the PCT Treaty Articles and the Regulations issued under the PCT Treaty (the PCT Regulations). Certain requirements of the PCT Treaty and PCT Regulations are reiterated in the USPTO's rules of practice in 37 CFR for the convenience of patent applicants. Changes to the PCT Regulations (PCT Rules 46.5 and 66.8) that govern the manner of making amendments to the claims in international applications will become effective on July 1, 2009. Under the current PCT Regulations, applicants are required to submit replacement pages for only those pages which contain changes, where under the revised PCT Regulations applicants will be required to submit a complete set of the claims when amending any of the claims. The USPTO's rules of practice in 37 CFR (37 CFR 1.485) set forth the current practice for amending claims and must be changed to be consistent with the changes to the PCT Regulations.

The changes to 37 CFR 1.485 are effective on July 1, 2009, and apply to any amendment filed in an international application on or after that date regardless of the filing date of the international application.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, part 1, is amended as follows:

Section 1.485: Section 1.485 is amended to require that amendments to the claims in a PCT international application must be made in accordance with PCT Rule 66.8.

Rulemaking Considerations

A. Administrative Procedure Act: The change in this final rule merely revises the USPTO's rules of practice to conform to the requirements of the PCT Regulations that become effective on July 1, 2009. 35 U.S.C. 364(a) provides that international applications shall be processed by the USPTO in accordance with the applicable provisions of the PCT, the Regulations under the PCT and Title 35 of the United States Code. Therefore, these rule changes involve interpretive rules or rules of agency practice and procedure under 5 U.S.C. 553(b)(A). Accordingly, the changes in this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). *See Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336-37, 87 U.S.P.Q.2d 1705, 1710 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35

U.S.C. 2(b)(2)(B), does not require notice and comment on rulemaking for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." (quoting 5 U.S.C. 553(b)(A)).

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

C. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

D. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

E. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian Tribes; (2) impose substantial direct compliance costs on Indian Tribal governments; or (3) preempt Tribal law. Therefore, a Tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

F. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

G. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

H. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

I. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

J. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of

1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office.

K. *Unfunded Mandates Reform Act of 1995*: The changes proposed in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. See 2 U.S.C. 1501 *et seq.*

L. *National Environmental Policy Act*: This rulemaking will not have any effect on the quality of environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. See 42 U.S.C. 4321 *et seq.*

M. *National Technology Transfer and Advancement Act*: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

N. *Paperwork Reduction Act*: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and approved by OMB under OMB control number 0651-0021. The USPTO is not resubmitting an information collection package to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collection under OMB control number 0651-0021.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to: (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the

Patent and Trademark Office; and (2) Robert A. Clarke, Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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 unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Section 1.485 is revised to read as follows:

§ 1.485 Amendments by applicant during international preliminary examination.

The applicant may make amendments at the time of filing the Demand. The applicant may also make amendments within the time limit set by the International Preliminary Examining Authority for reply to any notification under § 1.484(b) or to any written opinion. Any such amendments must be made in accordance with PCT Rule 66.8.

Dated: June 24, 2009.

John J. Doll,

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

[FR Doc. E9-15303 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR PART 17

RIN 2900-AM99

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Preauthorization of Durable Medical Equipment

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA)

medical regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) preauthorization section by increasing the dollar ceiling for purchase or rental of durable medical equipment (DME) from \$300 to \$2,000.

DATES: *Effective Date:* The final rule is effective July 31, 2009.

FOR FURTHER INFORMATION CONTACT: Lisa Brown, Chief, Policy Management Division, VA Health Administration Center, P.O. Box 460948, Denver, Colorado 80246; (303) 331-7882. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 28, 2008 (73 FR 63914), VA proposed to amend its medical regulations at 38 CFR Part 17 concerning CHAMPVA benefits. Specifically, it proposed to amend § 17.273(e) regarding durable medical equipment (DME) by increasing the dollar ceiling for purchase or rental of durable medical equipment (DME) from the \$300 to \$2,000.

CHAMPVA is a VA medical benefits program for (1) spouses and children of veterans who have a permanent and total service-connected disability and (2) surviving spouses and children of veterans who died as a result of a service-connected disability or while rated permanently and totally disabled from a service-connected disability, or who died in the active military, naval, or air service in the line of duty and there is not otherwise entitlement to Department of Defense TRICARE benefits. DME is included among the health care items that are available to CHAMPVA beneficiaries. To ensure that DME purchases and rental are medically necessary, appropriate and within the Department's budgetary constraints, VA requires non-VA providers to obtain preauthorization before the purchase or rental of DME for a CHAMPVA beneficiary when the cost of the DME exceeds \$300. DME purchases greater than \$300 are currently reviewed twice, *i.e.*, first when a request is submitted for preauthorization and again when the claim is officially submitted for payment.

The current rate was put in place in 1973. Since the cost of common DME items has steadily increased, this ceiling no longer reflects current costs. Raising the dollar amount to \$2,000 would make the administrative processing of DME claims easier for CHAMPVA beneficiaries and providers as well as for VA, since claims under that amount will only be reviewed once.

VA provided a 60-day comment period that ended December 29, 2008.

We received one comment from five individuals who jointly expressed their support for the proposed amendment to § 17.273(e). Based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposed rule as a final rule without change.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This final rule would have no such effect on State, local, and Tribal governments, or on the private sector.

Paperwork Reduction Act of 1995

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a “significant regulatory action” requiring review by Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action 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 government 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.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under the Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Individuals eligible for CHAMPVA benefits are widely dispersed geographically and thus services provided to them would not have a significant impact on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

Catalog of Federal Domestic Assistance

This final rule affects the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), for which there is no Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Health facilities, Health professionals, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Travel and transportation expenses, and Veterans.

Approved: June 22, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated above, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. Revise paragraph (e) of § 17.273 to read as follows:

§ 17.273 Preauthorization.

* * * * *

(e) Durable medical equipment with a purchase or total rental price in excess of \$2,000.

* * * * *

Authority: 38 U.S.C. 501, 1781.

[FR Doc. E9–15484 Filed 6–30–09; 8:45 am]

BILLING CODE 8320-01-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009–25, CP2009–30, CP2009–31, CP2009–32, CP2009–33 and CP2009–34; Order No. 282]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding the Postal Service’s Priority Mail Contract Group to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements of the law.

DATES: Effective July 1, 2009 and is applicable beginning June 19, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION:

Regulatory History, 74 FR 26744 (June 3, 2009)

The Postal Service seeks to add a new product identified as Priority Mail Contract Group to the Competitive Product List, or, in the alternative, add new products identified as Priority Mail Contract 6 through Priority Mail Contract 10 to the Competitive Product List. For the reasons that follow, the Commission adds the contracts identified in Docket Nos. CP2009–30 through CP2009–34 to the Competitive Product List as separate, new products.

I. The Postal Service’s Request

On May 19, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add a new product entitled Priority Mail Contract Group to the Competitive Product List.¹ The Postal Service asserts that Priority Mail Contract Group is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2009–25.

The Postal Service contemporaneously filed five contracts

¹ Docket No. MC2009–25, Request of the United States Postal Service to Add Priority Mail Contract Group to Competitive Product List, May 19, 2009 (Request). In the alternative, the Commission construes the Postal Service’s proposal as a request to add Priority Mail Contract 6 through Priority Mail Contract 10 to the Competitive Product List. See Order No. 217, Notice and Order Concerning Priority Mail Contract 6 through 10 Negotiated Service Agreements, May 26, 2009, at 4, n.5 (Order No. 217).

which it identifies as Priority Mail Contract 6, Priority Mail Contract 7, Priority Mail Contract 8, Priority Mail Contract 9, and Priority Mail Contract 10. These contracts have been assigned Docket Nos. CP2009–30 through CP2009–34, respectively.² It believes these contracts are related to the proposed new product in Docket No. MC2009–25.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision "authorizing management to negotiate [certain] contracts for Priority Mail service;" (2) requested changes in the Mail Classification Schedule product list and accompanying Mail Classification Schedule language; (3) a redacted version of the Governors' analysis of the Priority Mail Contract Group; (4) a statement of supporting justification as required by 39 CFR 3020.32; and (5) a certification of compliance with 39 U.S.C. 3633(a).³ Substantively, the Request seeks to add Priority Mail Contract Group to the Competitive Product List. Request at 1–2.

Redacted versions of five specific Priority Mail contracts are also included with the Request. Three of the contracts are for 3 years, one of the contracts is for 1 year, and the final contract is for 3 months. Depending on the contract, the effective dates are proposed to be either the day the Commission provides all necessary regulatory approvals or the following day.⁴ W. Ashley Lyons, Regulatory Reporting and Cost Analysis, Finance Department, certifies that all five contracts comply with 39 U.S.C. 3633(a). See Notices, Attachment B.

In the Statement of Supporting Justification, Mary Prince Anderson, Manager, Sales and Communications, Expedited Shipping, asserts that the services to be provided under the

proposed new product will cover their attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Request, Attachment 2. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of the creation of this product. *Id.*

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Priority Mail contracts, under seal. In its Request, the Postal Service maintains that the contracts 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. Request at 2; Notices at 2.

II. Procedural History

In Order No. 217, the Commission gave notice of the above-captioned dockets, offered certain preliminary observations on the Request and Notices, appointed a public representative, requested supplemental information, and provided the public with an opportunity to comment. Significantly, the Commission indicated that, in its view, Governors' Decision 09–6 could be used to satisfy the requirements of 39 CFR 3020.31(b) and 39 U.S.C. 3642 with regard to authorizing future Priority Mail contracts that might or might not be functionally equivalent to existing products. Order No. 217 at 4.

On June 1, 2009, the Postal Service filed the supplemental information requested in Order No. 217.⁵ On June 5, 2009, the Public Representative filed comments.⁶ On June 8, 2009, the Postal Service and United Parcel Service (UPS) filed comments.⁷

III. Comments

UPS comments. UPS argues that the proposed Priority Mail Contract Group product does not meet the Postal Accountability and Enhancement Act (PAEA) definition of the term "product," and is inconsistent with Order No. 43's finding that every

negotiated service agreement is a separate product unless the agreements are functionally equivalent to one another.⁸ It submits that for products to be functionally equivalent, they must have similar cost and market characteristics and be alike in all material respects. UPS Comments at 1–2.

UPS believes that the proposed Priority Mail Contract Group product is not limited to agreements that share the same cost and market characteristics. It believes that the length of time of the contract, whether the mailer or the Postal Service provides packaging as well as entry and preparation requirements, means that these contracts have very different cost characteristics. Moreover, because the shell classification only requires the cost coverage to fall within a specified range, shippers can qualify for contracts under the proposed product without regard to market similarities. *Id.* at 2–3.

UPS also has a concern that the proposed Priority Mail Contract Group would undermine the effectiveness of the PAEA's safeguards—grouping NSAs too broadly not only would diminish the Annual Compliance Report's value as a tool for achieving transparency, but also would undermine substantive ratemaking requirements, such as the requirement that each competitive product cover its attributable costs. It also believes that the effectiveness of pre-implementation review would be diminished due to the shortened timeframe for consideration of functionally equivalent agreements. In support of its position, UPS cites to Commission Order No. 26 in Docket No. RM2007–1.⁹ UPS Comments at 3–4.

Public Representative Comments. The Public Representative's Comments focus on (1) the breadth of the proposed shell classification in Docket No. MC2009–25; (2) a concern that the Governors may be delegating too much of their authority to management with respect to the proposed shell classification in Docket No. MC2009–25; and (3) a concern about the lack of transparency and accountability with respect to the voting records of the Governors. Public Representative Comments at 2–9. He believes that creating a broad product category seemingly without functional constraint is contrary to the public interest and the intent of the PAEA. *Id.* at 10.

² See Docket Nos. CP2009–30 through CP2009–34, Notice of Establishment of Rates and Class Not of General Applicability, May 19, 2009 (collectively cited as Notices).

³ Attachment 1 to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rates and Classes Not of General Applicability for Priority Mail Contract Group (Governors' Decision No. 09–6). The Governors' Decision includes two attachments. Attachment A shows the requested changes to the Mail Classification Schedule product list. Attachment B provides an analysis of the proposed Priority Mail Contract Group. Attachment 2 provides a statement of supporting justification for this Request. Attachment 3 provides the certification of compliance with 39 U.S.C. 3633(a).

⁴ The contracts in Docket Nos. CP2009–30, CP2009–31 and CP2009–34 become effective on the day the Commission issues all necessary regulatory approvals. The contracts in Docket Nos. CP2009–32 and CP2009–33 become effective the day after the Commission issues all necessary regulatory approvals.

⁵ Notice of the United States Postal Service of Filing Under Seal of Response to Request for Supplemental Information in Order No. 217, June 1, 2009 (Response).

⁶ Public Representative Comments in Response to Order No. 217, June 5, 2009 (Public Representative Comments).

⁷ Comments of the United States Postal Service in Response to Order No. 217 (Postal Service Comments), and Comments of United Parcel Service in Response to Commission Order No. 217 (UPS Comments), both filed on June 8, 2009.

⁸ Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

⁹ Docket No. RM2007–1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007 (Order No. 26).

The Public Representative offers two recommendations to alleviate these concerns. First, he suggests that the Commission work with the Postal Service to define shell classifications in a "somewhat narrower fashion" so that there is some common element among the included contracts. Second, he recommends that broad shell classifications should be set to expire after a specified period of time. *Id.* at 9–10.

Postal Service comments. The Postal Service claims that all five contracts share the cost and market characteristics of large, commercial Priority Mail customers. As such, it believes the agreements are functionally equivalent. The Postal Service references its Notices that identify the differences between the five agreements. For example, it states that proposed Priority Mail Contract 7 differs from Priority Mail Contract 6 only in regards to the negotiated prices, the postage payment method, and the provision of Priority Mail packaging. Postal Service Comments at 2. It characterizes these differences as "minor," and argues that they do not rise to the level of differences in cost or market characteristics that would be expected at the product level. *Id.* at 1–2.

The Postal Service does not believe that the scope of the classification established by the Governors is problematic, noting that it is less broad than Priority Mail service as a whole, which is one product. It contends that while the concept of functional equivalency was originally applied to negotiated service agreements to ensure similarly situated customers would be entitled to similar agreements with the Postal Service, those concerns are reduced significantly in the context of competitive products. *Id.* at 3–4.

As a practical matter, the Postal Service explains that it has encountered difficulties in implementing contracts and maintaining customers in light of various uncertainties, including the lack of a statutory or regulatory timeline for proceedings filed under section 3642. It notes that "even after negotiation, signature, and filing, the implementation date is not known when a section 3642 proceeding is required." *Id.* at 4. On the other hand, it argues that adding Priority Mail Contract Group to the product list will improve the ability of the Postal Service to plan with the customer for a smooth initiation and implementation of the contract terms on a known date. *Id.* at 4–5.

IV. Commission Analysis

The Commission has reviewed the Postal Service's filings in Docket Nos.

MC2009–25 and CP2009–30 through CP2009–34, the financial analysis provided under seal that accompanies it, the supplemental information filed by the Postal Service, and the comments filed by the Public Representative, the Postal Service, and UPS.

Statutory requirements. The Commission's statutory responsibilities with respect to 39 U.S.C. 3642 in this instance entail (1) determining the appropriate scope of the proposed new product or products, and (2) assigning the proposed contracts to either the Market Dominant Product List or to the Competitive Product List. As part of this responsibility, the Commission also reviews the proposal for compliance with PAEA requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

Scope of the proposed product. The Postal Service is seeking to place on the Competitive Product List a product that would encompass all mailer-specific agreements for Priority Mail. The proposed requirements for that negotiated service agreement product entitled "Priority Mail Contract Group" are as follows: (1) The agreement must be for Priority Mail service, and (2) the cost coverage for the particular contract must fall within a specified, broad range. Request, Attachment 1 and Attachment A. The Public Representative and UPS argue that the scope of this proposed new product is too broad, and that classifying all five Priority Mail contracts at issue in this case (and future Priority Mail contracts satisfying the above criteria) as a single product is inappropriate.

39 U.S.C. 102(6) defines the term "product" as "a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied[.]" In Order No. 43, the Commission found, after providing the public with several rounds of notice and comment in a rulemaking proceeding, that each negotiated service agreement would be treated as a separate product except in very limited circumstances. Order No. 43, paras. 1003, 2177. With respect to these limited circumstances, the Commission stated that "it may be appropriate to group functionally equivalent negotiated service agreements as a single product if it can be shown that they have similar cost and market characteristics." *Id.* para. 2177. After consideration of conflicting arguments from several commenters, the Commission found that this method of treating negotiated service agreements as separate products was an appropriate

way to balance the PAEA's competing goals. The Commission noted:

This treatment affords the Postal Service flexibility to enter into any special classification it wishes, but provides the necessary transparency to satisfy relevant business and regulatory needs. Absent the discipline that such accountability imposes, both the Postal Service and the Commission roles under the PAEA may be compromised. For example, the Postal Service may lack agreement-specific details on profitability of the agreement, while the Commission would be unable to assess whether the agreement complied with the statute.

Order No. 26, para. 3079. Allowing negotiated service agreements to be placed into only a few products "forfeits transparency and serves no legitimate business or regulatory need * * * [and] it will not provide for accountability, a bedrock principle underlying the PAEA." *Id.* para. 3070. In particular, as UPS notes, too broadly defining a product would diminish the effectiveness of the Commission's review of the Postal Service's annual compliance report since the Commission's annual compliance determination focuses on compliance at the product level. *See* 39 U.S.C. 3652(a)(1), 3653(b)(1).

Negotiated service agreements may be treated as part of the same product, but only when they have similar cost and market characteristics. Although the Postal Service characterizes the differences between the contracts and contractual partner profiles as "minor," the Commission is not persuaded that the differences are sufficiently minor as to allow treatment as a single product. The proposed "Priority Mail Contract Group" is too encompassing to ensure that the contracts have similar cost and market characteristics. The proposed Priority Mail Contract Group product would treat all Priority Mail contracts as one product so long as the anticipated cost coverage of each contract falls within a given, broad range. As UPS notes, no other qualifications apply.

The proposed draft Mail Classification Schedule language states that:

Each individual contract will specify the applicable rates, any postage payment methods required, whether any volume minimums apply, whether packaging is provided by the Postal Service, the length of the contract and any price adjustment mechanism, and any other customized terms or conditions applicable to the provision of Priority Mail service at the negotiated rates.

Request at Attachment 1, Attachment A. Each of the five characteristics listed have potential cost and/or market implications. For example, as UPS points out, "[a] contract that will be in effect for only the summer of 2009

would not have the same market or cost characteristics as contracts that will be in effect for all seasons of the year.” UPS Comments at 2. Other criteria not identified in the proposed product description language that may have distinct cost and/or market characteristics include shape, weight, and dropshipping.

The proposed catch-all provision allowing future contracts to contain “any other customized terms or conditions” is also problematic. It is so expansive as to be unknowable, but presumably would justify any Priority Mail piece meeting the cost coverage range to fall within the proposed product. This catch-all approach is far too wide-ranging to allow the Commission to conclude that there are similar cost characteristics in the potential contractual partners’ mailing profiles.

Additionally, if the Postal Service is suggesting that all contractual partners that use Priority Mail exhibit similar market characteristics, that contention has no support.¹⁰ The Commission does not view mailings with significantly different costs or mailings sent by mailers with different market characteristics as functionally equivalent, notwithstanding that their cost coverages are within a wide, given range.

For the reasons discussed above, the Postal Service’s proposed Priority Mail Contract Group is too broad to be considered a single product. Below, the Commission addresses the contracts filed in Docket Nos. CP2009–30 through 34 to determine if the agreement should be placed on the product list as a separate product or if several of the agreements can be placed on the product list as one product on the basis of functional equivalency.

Functional equivalence. The Postal Service contends that the four contracts are functionally equivalent to the one submitted in Docket No. CP2009–30 and that, accordingly, all should be grouped under the same product. Notices at 1; Postal Service Comments at 2. It appears to be implicitly arguing that the contracts share the same cost and market characteristics as the one submitted in Docket No. CP2009–30. See Postal Service Comments at 1–2. It points out that the differences between the contracts relate to negotiated prices,

¹⁰ The Postal Service correctly points out that Priority Mail (dealing with rates of general applicability) is a broad, distinct product. However, a broad Priority Mail product of general applicability does not raise the same concerns, discussed above and in Order Nos. 26 and 43, as multiple mailer specific contracts “expected” to achieve a cost coverage target.

the postage payment method, the provision of packaging, the term of the contract, and mail entry requirements. *Id.* at 2 (*citing* Notices at 1). It characterizes these differences as “minor.” *Id.* The Commission has reviewed the five contracts and, for the same reasons that it found the Priority Mail Contract Group proposed product to be overbroad, finds that none of these contracts may be appropriately classified within the same product. Accordingly, these contracts will be treated as separate products (Priority Mail Contract 6 through Priority Mail Contract 10).¹¹

Timelines for review under 39 U.S.C. 3642. The Postal Service implies that the absence of a statutory or regulatory timeline for the Commission’s review under 39 U.S.C. 3642 has contributed to “difficulties in implementing contracts and maintaining customers[.]”¹² The Postal Service correctly notes that proceedings under 39 CFR 3015.5 require at least 15 days’ notice prior to the effective date, while 39 CFR 3020 subpart B proceedings do not have a definite timeframe. However, the Commission has consistently processed 39 CFR 3020 subpart B filings expeditiously. Since the first post-PAEA domestic competitive rate contract was filed, the Commission has issued its final decision in 39 CFR 3020 subpart B proceedings in an average of 21 days. Overall, the Commission’s average review period for competitive contracts in section 3642 proceedings is 27 days. These timeframes undoubtedly could be shortened if the initial filings were fully supported by all relevant information. See, e.g., Docket Nos. MC2009–21 and CP2009–26, Order Concerning Priority Mail Contract 5 Negotiated Service Agreement, March 30, 2009, at 6. (“The electronic files submitted in support of the Request did not include all supporting data. Future requests must provide all electronic files showing calculations in support of the financial models associated with the request. A failure to provide such information may

¹¹ In contrast, the Commission has approved the grouping of several similar contracts within the same product in the international arena (although there may be distinctions between domestic and international services provided by the Postal Service which need to be taken into account). See, e.g., Docket Nos. CP2008–11, 12, 13, 18–21, 23, 25; CP2009–1, 15, 16 (GEPS 1 Product); Docket Nos. CP2009–10, 11, 29 (Global Direct Product); Docket No. CP2009–10 (Global Plus 1 Product); and Docket No. CP2009–17 (Global Plus 2 Product).

¹² Postal Service Comments at 4. The Postal Service does not contend that the absence of a statutory or regulatory timeline is the primary or even a significant factor in causing difficulties in implementing contracts and maintaining customers; instead it states that its difficulties are due to “various uncertainties.” *Id.*

delay resolution of requests in the future.”)

Taking into account these filings represent new products and that the public is entitled to a reasonable opportunity to comment on these proposals, the Commission’s record demonstrates that it acts quickly on Postal Service requests to add new competitive negotiated service agreement products to the Competitive Product List. Moreover, while the Commission appreciates the Postal Service’s desire to move quickly, it would appear that delay in implementation is often not due to Commission proceedings.

For example, three of the five contracts filed in this case in May 2009 were countersigned by the Postal Service in February of 2009.¹³ Additionally, the Governors’ Decision associated with these agreements was issued at the end of April 2009, yet the contracts were not filed with the Commission for approval until 22 days later. Request, Attachment 1.

As has been discussed in other contexts, the Commission and the Governors have different, complementary responsibilities. The Commission does recognize the Board of Governors’ concerns in administering such agreements. As stated in Order No. 217, it is the Commission’s view that Governors’ Decision 09–6 may be used to authorize future Priority Mail agreements that satisfy the broad parameters set out in Governors’ Decision 09–6. Based on the parameters of Governors’ Decision 09–6, the Postal Service may seek to add future non-functionally equivalent Priority Mail contracts to the Competitive Product List by filing new, joint “MC” and “CP” dockets. Governors’ Decision 09–6 would then satisfy the requirements of 39 CFR 3020.31(b) and 39 U.S.C. 3642. In those cases, however, the Postal Service still should file supporting justification as required by 39 CFR 3020.32 to justify the particular contract or group of contracts for that narrower product grouping.

Product list assignment. In determining whether to assign Priority Mail Contract 6 through Priority Mail Contract 10 as products to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether:

¹³ Docket No. CP2009–30, Notice, Attachment A at 5 (signed by the Postal Service on February 17, 2009); Docket No. CP2009–31, Notice, Attachment A at 5 (signed by the Postal Service on February 25, 2009); and Docket No. CP2009–33, Notice, Attachment A at 5 (signed by the Postal Service on February 4, 2009).

The Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the particular product will be categorized as market dominant. The competitive category of products shall consist of all other products.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

The Postal Service asserts that, for these contracts, its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to private companies. Request, Attachment 2, at 2. The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. *Id.* It further states that shippers typically support the addition of their agreements to the product list to effectuate the negotiated contractual terms. *Id.* at 3. Finally, the Postal Service states that the market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. It indicates that large carriers serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for this customer. *Id.*

No commenter opposes the proposed classification of Priority Mail Contract 6 through Priority Mail Contract 10 as competitive. Having considered the statutory requirement and the support offered by the Postal Service, the Commission finds that Priority Mail Contract 6, Priority Mail Contract 7, Priority Mail Contract 8, Priority Mail Contract 9, and Priority Mail Contract 10 are appropriately classified as competitive products and should be added to the Competitive Product List.

Cost considerations. The Postal Service's filings seek to establish new domestic negotiated service agreement products using Priority Mail. The contracts are predicated on unit costs for major mail functions, *e.g.*, window service, mail processing, and transportation, based on the shipper's mail characteristics. Governors' Decision, Attachment B.

The Postal Service contends that its financial analysis shows that each of these five contracts cover its attributable costs, do not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products. See Notices, Attachment B.

Based on the data submitted and the comments received, the Commission finds that each of the five proposed Priority Mail contracts at issue in this case should cover its respective attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of the five proposed Priority Mail contracts at issue in this case indicates that each comports with the provisions applicable to rates for competitive products.

Termination dates. The Postal Service shall promptly notify the Commission when each contract terminates, but no later than the actual termination date. The Commission will then remove the contract from the Mail Classification Schedule at the earliest possible opportunity.

In conclusion, the Commission approves Priority Mail Contract 6 (MC2009–25 and CP2009–30), Priority Mail Contract 7 (MC2009–25 and CP2009–31), Priority Mail Contract 8 (MC2009–25 and CP2009–32), Priority Mail Contract 9 (MC2009–25 and CP2009–33), and Priority Mail Contract 10 (MC2009–25 and CP2009–34) as new products. The revision to the Competitive Product List is shown below the signature of this Order and is effective upon issuance of the order.

V. Ordering Paragraphs

It is Ordered:

1. Priority Mail Contract 6 (MC2009–25 and CP2009–30), Priority Mail Contract 7 (MC2009–25 and CP2009–31), Priority Mail Contract 8 (MC2009–25 and CP2009–32), Priority Mail Contract 9 (MC2009–25 and CP2009–33), and Priority Mail Contract 10 (MC2009–25 and CP2009–34) are added to the Competitive Product List as new products under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission of the termination date of each contract filed in Docket Nos. CP2009–30, CP2009–31, CP2009–32, CP2009–33, and CP2009–34 as discussed in this order.

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

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

By the Commission.

Steven W. Williams,
Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR part 3020 as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification

Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail

Single-Piece Letters/Postcards

Bulk Letters/Postcards

Flats

Parcels

Outbound Single-Piece First-Class Mail

International

Inbound Single-Piece First-Class Mail

International

Standard Mail (Regular and Nonprofit)

High Density and Saturation Letters

High Density and Saturation Flats/Parcels

Carrier Route

Letters

Flats

Not Flat-Machinables (NFM)s/Parcels

Periodicals

Within County Periodicals

Outside County Periodicals

Package Services

Single-Piece Parcel Post

Inbound Surface Parcel Post (at UPU rates)

Bound Printed Matter Flats

Bound Printed Matter Parcels

Media Mail/Library Mail

Special Services

Ancillary Services

International Ancillary Services

Address List Services

Caller Service

Change-of-Address Credit Card

Authentication

Confirm

International Reply Coupon Service

International Business Reply Mail Service

Money Orders

Post Office Box Service

Negotiated Service Agreements

HSBC North America Holdings Inc.

Negotiated Service Agreement

Bookspan Negotiated Service Agreement

Bank of America corporation Negotiated Service Agreement	[Reserved for Product Description]	Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
The Bradford Group Negotiated Service Agreement	Insurance	Priority Mail
Inbound International	[Reserved for Product Description]	Priority Mail
Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services	Merchandise Return Service	Outbound Priority Mail International
Market Dominant Product Descriptions	[Reserved for Product Description]	Inbound Air Parcel Post
First-Class Mail	Parcel Airlift (PAL)	Royal Mail Group Inbound Air Parcel Post Agreement
[Reserved for Class Description]	[Reserved for Product Description]	Parcel Select
Single-Piece Letters/Postcards	Registered Mail	Parcel Return Service
[Reserved for Product Description]	[Reserved for Product Description]	International
Bulk Letters/Postcards	Return Receipt	International Priority Airlift (IPA)
[Reserved for Product Description]	[Reserved for Product Description]	International Surface Airlift (ISAL)
Flats	Return Receipt for Merchandise	International Direct Sacks—M-Bags
[Reserved for Product Description]	[Reserved for Product Description]	Global Customized Shipping Services
Parcels	Restricted Delivery	Inbound Surface Parcel Post (at non-UPU rates)
[Reserved for Product Description]	[Reserved for Product Description]	Canada Post—United States Postal service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)
Outbound Single-Piece First-Class Mail International	Shipper-Paid Forwarding	International Money Transfer Service
[Reserved for Product Description]	[Reserved for Product Description]	International Ancillary Services
Inbound Single-Piece First-Class Mail International	Signature Confirmation	Special Services
[Reserved for Product Description]	[Reserved for Product Description]	Premium Forwarding Service
Standard Mail (Regular and Nonprofit)	Special Handling	Negotiated Service Agreements
[Reserved for Class Description]	[Reserved for Product Description]	Domestic
High Density and Saturation Letters	Stamped Envelopes	Express Mail Contract 1 (MC2008–5)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail Contract 2 (MC2009–3 and CP2009–4)
High Density and Saturation Flats/Parcels	Stamped Cards	Express Mail Contract 3 (MC2009–15 and CP2009–21)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
Carrier Route	Premium Stamped Stationery	Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
Letters	Premium Stamped Cards	Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
Flats	International Ancillary Services	Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
[Reserved for Product Description]	[Reserved for Product Description]	Priority Mail Contract 1 (MC2008–8 and CP2008–26)
Not Flat-Machinables (NFM)s/Parcels	International Certificate of Mailing	Priority Mail Contract 2 (MC2009–2 and CP2009–3)
[Reserved for Product Description]	[Reserved for Product Description]	Priority Mail Contract 3 (MC2009–4 and CP2009–5)
Periodicals	International Registered Mail	Priority Mail Contract 4 (MC2009–5 and CP2009–6)
[Reserved for Class Description]	[Reserved for Product Description]	Priority Mail Contract 5 (MC2009–21 and CP2009–26)
Within County Periodicals	International Return Receipt	Priority Mail Contract 6 (MC2009–25 and CP2009–30)
[Reserved for Product Description]	[Reserved for Product Description]	Priority Mail Contract 7 (MC2009–25 and CP2009–31)
Outside County Periodicals	International Restricted Delivery	Priority Mail Contract 8 (MC2009–25 and CP2009–32)
[Reserved for Product Description]	[Reserved for Product Description]	Priority Mail Contract 9 (MC2009–25 and CP2009–33)
Package Services	Address List Services	Priority Mail Contract 10 (MC2009–25 and CP2009–34)
[Reserved for Class Description]	[Reserved for Product Description]	Outbound International
Single-Piece Parcel Post	Caller Service	Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)
[Reserved for Product Description]	[Reserved for Product Description]	Global Expedited Package Services (GEPS) Contracts
Inbound Surface Parcel Post (at UPU rates)	Change-of-Address Credit Card Authentication	GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)
[Reserved for Product Description]	[Reserved for Product Description]	Global Plus Contracts
Bound Printed Matter Flats	Confirm	Global Plus 1 (CP2008–9 and CP2008–10)
[Reserved for Product Description]	[Reserved for Product Description]	Global Plus 2 (MC2008–7, CP2008–16 and CP2008–17)
Bound Printed Matter Parcels	International Reply Coupon Service	
[Reserved for Product Description]	[Reserved for Product Description]	
Media Mail/Library Mail	International Business Reply Mail Service	
[Reserved for Product Description]	[Reserved for Product Description]	
Special Services	Money Orders	
[Reserved for Class Description]	[Reserved for Product Description]	
Ancillary Services	Post Office Box Service	
[Reserved for Product Description]	[Reserved for Product Description]	
Address Correction Service	Negotiated Service Agreements	
[Reserved for Product Description]	[Reserved for Class Description]	
Applications and Mailing Permits	HSBC North America Holdings Inc. Negotiated Service Agreement	
[Reserved for Product Description]	[Reserved for Product Description]	
Business Reply Mail	Booksman Negotiated Service Agreement	
[Reserved for Product Description]	[Reserved for Product Description]	
Bulk Parcel Return Service	Bank of America Corporation Negotiated Service Agreement	
[Reserved for Product Description]	The Bradford Group Negotiated Service Agreement	
Certified Mail	Part B—Competitive Products	
[Reserved for Product Description]	Competitive Product List	
Certificate of Mailing	Express Mail	
[Reserved for Product Description]	Express Mail	
Collect on Delivery	Outbound International Expedited Services	
[Reserved for Product Description]	Inbound International Expedited Services	
Delivery Confirmation	Inbound International Expedited Services 1 (CP2008–7)	

Inbound International
 Inbound Direct Entry Contracts with
 Foreign Postal Administrations
 (MC2008–6, CP2008–14 and CP2008–15)
 International Business Reply Service
 Competitive Contract 1 (MC2009–14 and
 CP2009–20)
 Competitive Product Descriptions
 Express Mail
 [Reserved for Group Description]
 Express Mail
 [Reserved for Product Description]
 Outbound International Expedited Services
 [Reserved for Product Description]
 Inbound International Expedited Services
 [Reserved for Product Description]
 Priority
 [Reserved for Product Description]
 Priority Mail
 [Reserved for Product Description]
 Outbound Priority Mail International
 [Reserved for Product Description]
 Inbound Air Parcel Post
 [Reserved for Product Description]
 Parcel Select
 [Reserved for Group Description]
 Parcel Return Service
 [Reserved for Group Description]
 International
 [Reserved for Group Description]
 International Priority Airlift (IPA)
 [Reserved for Product Description]
 International Surface Airlift (ISAL)
 [Reserved for Product Description]
 International Direct Sacks—M-Bags
 [Reserved for Product Description]
 Global Customized Shipping Services
 [Reserved for Product Description]
 International Money Transfer Service
 [Reserved for Product Description]
 Inbound Surface Parcel Post (at non-UPU
 rates)
 [Reserved for Product Description]
 International Ancillary Services
 [Reserved for Product Description]
 International Certificate of Mailing
 [Reserved for Product Description]
 International Registered Mail
 [Reserved for Product Description]
 International Return Receipt
 [Reserved for Product Description]
 International Restricted Delivery
 [Reserved for Product Description]
 International Insurance
 [Reserved for Product Description]
 Negotiated Service Agreements
 [Reserved for Group Description]
 Domestic
 [Reserved for Product Description]
 Outbound International
 [Reserved for Group Description]

Part C—Glossary of Terms and Conditions
 [Reserved]

Part D—Country Price Lists for International
 Mail [Reserved]

[FR Doc. E9–15469 Filed 6–30–09; 8:45 am]

BILLING CODE 7710-FW-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R02–RCRA–2009–0346; FRL–8916–7]

New York: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection
 Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: New York State has applied to EPA for final authorization of changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes, with limited exceptions, satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize New York's changes to its hazardous waste program will take effect as provided below. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule, or the portion of the rule that is the subject of the comments, before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on August 31, 2009 unless EPA receives adverse written comment by July 31, 2009. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule or those paragraphs or sections of this rule which are the subject of the comments opposing the authorization in the **Federal Register** and inform the public that only the portion of the rule that is not withdrawn will take effect. (See Section E of this rule for further details).

ADDRESSES: Submit your comments, identified by EPA–R02–RCRA–2009–0346, by one of the following methods:

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

- *E-mail:* infurna.michael@epa.gov.

- *Fax:* (212) 637–4437.

- *Mail:* Send written comments to Michael Infurna, Division of

Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

- *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R02–RCRA–2009–0346. 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 <http://www.regulations.gov>, or e-mail. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket

materials are available either electronically in <http://www.regulations.gov> or in hard copy. You can view and copy New York's application during business hours at the following addresses: EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007, *Phone number:* (212) 637-3185; or New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials, 625 Broadway, Albany, NY 12233-7250, *Phone number:* (518) 402-8730. The public is advised to call in advance to verify the business hours of the above locations.

FOR FURTHER INFORMATION CONTACT: Michael Infurna, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number (212) 637-4177; fax number: (212) 637-4377; e-mail address: infurna.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that New York's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant New York final authorization to operate its hazardous waste program with the changes described in the authorization application. New York has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions

imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before the States are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in New York, including issuing permits if necessary, until the State is granted authorization to do so.

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

The effect of this decision is that a facility in New York subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. New York has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003. These sections include, but may not be limited to, the authority to:

- Do inspections, and require monitoring, tests, analyses, reports or other actions;
- Enforce RCRA requirements and suspend or revoke permits;
- Take enforcement actions regardless of whether the State has taken its own actions.

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

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

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

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

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity

to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has New York Previously Been Authorized for?

New York initially received final authorization effective on May 29, 1986 (51 FR 17737) to implement its base hazardous waste management program. We granted authorization for changes to its program effective July 3, 1989 (54 FR 19184), May 7, 1990 (55 FR 7896), October 29, 1991 (56 FR 42944), May 22, 1992 (57 FR 9978), August 28, 1995 (60 FR 33753), October 14, 1997 (62 FR 43111), January 15, 2002 (66 FR 57679), and March 14, 2005 (70 FR 1825, as corrected on April 4, 2005 at 70 FR 17286).

While EPA is not authorizing any new New York State civil or criminal statute in this program revision authorization, be advised that New York State has revised some of the statutory provisions which provide the legal basis for the State's implementation of the hazardous waste management program in New York State. On August 26, 2003 New York added a new provision to its statutes at Public Officers Law (POL) § 89(5)(a)(1-a) that allows requests for records related to critical infrastructure information to be excepted from disclosure at any time, not just at the time of submission. The new State provision is consistent with 40 CFR 2.203(c) which states that "If a claim covering the information is received after the information itself is received, EPA will make such efforts as are administratively practicable to associate the late claim with copies of the previously-submitted information in EPA files" in order to safeguard the Confidential Business Information in the submitted documents. Public Officers Law § 86.5, defines Critical Infrastructure as "systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy." After the events of September 11, 2001, a number of

records that at one time were publicly available were deemed confidential and this new provision is used by the State Agency to withhold information at the time it is requested as a matter of public safety.

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

On October 27, 2005, December 1, 2005 and October 27, 2006, New York submitted three program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. Subsequently, on July 17, 2008, the State submitted signed Attorney General Certifications for the three applications. New York's revision applications include (1) changes to the

Federal Hazardous Waste program issued by EPA from October 20, 1999 through January 20, 2002; (2) the Project XL Rulemaking for New York State Public Utilities, as published on July 21, 1999 (64 FR 37624) and amended May 24, 2005 (70 FR 29910); (3) the Uniform Hazardous Waste Manifest Rule, published on March 4, 2005 (70 FR 10776) and amended June 16, 2005 (70 FR 35034); and (4) State-initiated changes. New York made these changes to provisions that we had previously authorized, as listed in Section F. The State-initiated changes make the State's regulations more internally consistent, or make the State regulations more like the Federal language.

We now make an immediate final decision, subject to receipt of written comments that oppose this action, that except as noted in Section H, New York's hazardous waste program revision and State-initiated changes satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant New York final authorization for the following program revisions: (The New York provisions are set forth in the Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, Hazardous Waste Management System, amended effective September 3, 2005 and the July 15, 2006 Supplement, effective September 5, 2006.)

1. Program Revisions

Description of federal requirement (revision checklists ¹)	Analogous state regulatory authority ²
RCRA CLUSTER³ X	
Land Disposal Restrictions Phase IV—Technical Corrections (10/20/99, 64 FR 56469; Revision Checklist 183).	Title 6 New York Codes, Rules and Regulations (6 NYCRR) 371.4(c)*, 373–1.1(d)(1)(iii)(‘c’)(‘5’), 376.1(g)(1)(iii)(‘c’), 376.4(a)(10), 376.4(a)/Table, 376.4(k)(3)(i)(‘a’), 376.4(k)(3)(i)(‘b’). *Broader in scope, see discussion in Section H.
Accumulation Time for Waste Water Treatment Sludges (3/8/00, 65 FR 12378; Revision Checklist 184).	6 NYCRR 373–1.1(d)(1)(iii)(‘c’)(‘5’), 372.2(a)(8)(vi) through (viii).
Organobromine Production Wastes Vacatur (3/17/00, 65 FR 14472; Revision Checklist 185).	6 NYCRR 371.4(c), 371.4(d)(6), Appendices 22 and 23, 376.4(a), 376.4(j).
Petroleum Refining Process Wastes—Clarification (6/8/00, 64 FR 36365; Revision Checklist 187).	6 NYCRR 371.4(b).
RCRA CLUSTER XI	
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes (11/8/00, 65 FR 67068; Revision Checklist 189).	6 NYCRR 371.4(c), 376.3(c), 376.4(a)/Table, 376.4(j)/Table, Appendices 22 and 23.
Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil (12/26/00, 65 FR 81373; Revision Checklist 190).	6 NYCRR 376.3(h), 376.4(j)/Table UTS, 376.4(k)(4), Appendix 37.
Mixed Waste Rule (5/16/01, 66 FR 27218; Revision Checklist 191)	6 NYCRR 374–1.9.
Mixture and Derived-From Rules Revisions (5/16/01, 66 FR 27266; Revision Checklist 192A).	6 NYCRR 371.1(d)(1)(ii)(‘c’) [reserved], 371.1(d)(1)(ii)(‘d’), 371.1(d)(3)(ii)(‘a’), 371.1(d)(6)(i) through 371.1(d)(6)(iii), 371.1(d)(7).
Change of Official EPA Mailing Address (6/28/01, 66 FR 34374; Revision Checklist 193).	6 NYCRR 370.1(e)(8) note.
RCRA CLUSTER XII	
Mixture and Derived-From Rules Revision II (10/3/01, 66 FR 50332; Revision Checklist 194).	6 NYCRR 371.1(d)(1)(ii)(‘d’), 371.1(d)(6)(iv).
Inorganic Chemical Manufacturing Wastes Identification and Listing (11/20/01, 66 FR 58258; Revision Checklist 195).	6 NYCRR 371.1(e)(2)(xiii), 371.4(c), 376.3(i), 376.4(a) Table, Appendix 22.
CAMU Amendments (1/22/02, 67 FR 2962; Revision Checklist 196)	6 NYCRR 370.2(b)(37), 370.2(b)(158), 373–2.19(a), 373–2.19(b)(1), 373–2.19(c), 373–2.19(e)(1)(i).
RCRA CLUSTER XV	
Uniform Hazardous Waste Manifest Rule (3/4/05, 70 FR 10776; as amended 6/16/05, 70 FR 35034; Revision Checklist 207).	6 NYCRR 370.2(b)(43), 370.2(b)(121), 370.2(b)(122), 371.1(h)(2)(i)(‘c’)(‘1’) and (‘2’), 372.2(b)(1), 372.2(b)(10), 372.2(a)(6)(ii), 372.2(a)(7), 372.2(a)(8)(ix), 372.3(b)(3) [reserved], 372.3(b)(6)(i), 372.3(b)(7)(i) [except (b)(7)(i)(‘d’)], 372.3(b)(4)(ii) and (iii), 372.5(d)(3), 372.5(d)(5), 372.5(j)(3) and (j)(4), 372.7(d)(3), 372.7(d)(4), Appendix 30*, 373–2.5(a), 373–2.5(b)(1) [except (b)(1)(i)(‘c’) and (b)(1)(viii)], 373–2.5(b)(2), 373–2.5(b)(3)(ii) [except (b)(3)(ii)(‘d’) and (‘e’)], 373–2.5(b)(4), 373–3.5(a), 373–3.5(b)(1) [except (b)(1)(i)(‘c’) and (b)(1)(viii)], 373–3.5(b)(2), 373–3.5(b)(3)(ii) [except (b)(3)(ii)(‘d’) and (‘e’)], 373–3.5(b)(4) as amended effective 9/5/06. *Broader in scope: Appendix 30, Instructions for Generators/Item 8., see discussion in Section H.

Description of federal requirement (revision checklists ¹)	Analogous state regulatory authority ²
	(More stringent: Appendix 30, General Information, Distribution; Appendix 30, Instructions for Generators/Item 13. Waste Codes, 372.7(d)(4), 373–2.5(a)(1), 373–2.5(b)(1)(i)(‘b’) introductory paragraph & (‘b’)(‘1’), 373–2.5(b)(1)(i)(‘b’)(‘5’), 373–2.5(b)(1)(vii), 373–2.5(b)(2), 373–3.5(a)(1), 373–3.5(b)(1)(i)(‘b’) introductory paragraph & (‘b’)(‘1’), 373–3.5(b)(1)(i)(‘b’)(‘5’), 373–3.5(b)(1)(vii), 373–3.5(b)(2)).
PROJECT XL⁴	
Project XL Rulemaking for New York State Public Utilities; Hazardous Waste Management Systems; Final Rule (7/12/99, 64 FR 37624; as amended 5/24/05, 70 FR 29910).	6 NYCRR 372.2(d), 373–1.1(d)(1)(xxi).

¹ A Revision Checklist is a document that addresses the specific changes made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA’s RCRA State Authorization Web page at <http://www.epa.gov/osw/laws-regs/state/index.htm>.

² The New York provisions are set forth in the Title 6 of the New York Codes, Rules and Regulations (6 NYCRR), as amended through September 3, 2005, unless otherwise specified.

³ A RCRA “Cluster” is a set of Revision Checklists for Federal rules, typically promulgated between July 1 and June 30 of the following year.

⁴ **Note:** Both the Federal and State requirements for the NY State Public Utilities Project XL will expire on May 24, 2011.

2. State-Initiated Changes

The State-initiated changes correct typographical and printing errors, clarify and make the State’s regulations more internally consistent, or make the State regulations more like the Federal language.

EPA grants New York final authorization to carry out the following provisions of the State’s program in lieu of the Federal program. The New York provisions are from the Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, Hazardous Waste Management System, amended through September 3, 2005, unless otherwise specified. For clarity, the appropriate effective date is provided in parentheses following the provision(s). More stringent provisions are indicated with an asterisk (*).

Part 370—Hazardous Waste Management System—General: Sections 370.1(e)(1)(xv) and (xvi); 370.1(e)(6)(ii) through (iii); 370.1(e)(2); 370.1(e)(3)(ii) and (iii) (September 5, 2006); 370.1(f) *; and 370.2(b)(55), (b)(105), (b)(135), (b)(136), (b)(137) (reserved).

Part 371—Identification and Listing of Hazardous Waste: Section 371.1(c)(7) *.

Part 372—Hazardous Waste Manifest System and Related Standards or Generators, Transporters and Facilities: Sections 372.2(b)(1)(i), (b)(2) *, (b)(3) *, (b)(6) and (b)(7) (September 5, 2006); 372.3(b)(1), (b)(2), (b)(4) and (b)(5) (September 5, 2006); 372.7(d)(2) (September 5, 2006).

Part 373, Subpart 373–1—Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements: Sections 373–1.3(d)(3), 373–1.8(b), 373–1.10(a)(1), (b)(1) and (c)(1).

Part 373, Subpart 373–2—Final Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage

and Disposal Facilities: Sections 373–2.5(b)(1)(viii) * and (b)(5) (September 5, 2006), 373–2.8(a)(3), 373–2.10(g)(4)(i), 373–2.12(g)(2), 373–2.19(d) and (e), 373–2.29(e)(3)(i).

Part 373, Subpart 373–3—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities: Sections 373–3.5(b)(1)(viii) * and (b)(5), (September 5, 2006); and 373–3.15(a)(2).

Part 376—Land Disposal Restrictions: Sections: 376.1(b)(1)(xi), 376.1(g)(1)(i) except the reference to “376.4(f)”, 376.4(g)(1).

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

More Stringent State Rules

New York hazardous waste management regulations are more stringent than the corresponding Federal regulations in a number of different areas. The more stringent provisions are being recognized as a part of the Federally-authorized program and are Federally enforceable. The specific more stringent provisions are noted in Section G and in the State’s authorization application, and include, but are not limited to, the following:

1. At 370.1(f), New York requires that laboratory tests or sample analyses be performed by a State-certified laboratory. The Federal program does not contain a lab certification program.

2. In addition to the demonstration and documentation of claims that materials are not solid wastes or are conditionally exempt from regulation required by 40 CFR 261.2(f), at 371.1(c)(7), the State requires the party claiming the exemption to notify the Department before using the exemption.

3. At 373–2.5(b)(1)(viii) and 373–3.5(b)(1)(viii), New York requires treatment, storage and disposal facilities to keep records on shipments accepted from small quantity generators who ship hazardous waste via a reclamation agreement under 40 CFR 262.20(e). The Federal program only has requirements for the generator and transporter of such wastes to keep records related to the agreement and/or shipments.

4. At 373–2.19(c)(1)(iii)(‘c’), New York is more stringent than the Federal requirement at 40 CFR 264.552(a)(3)(iii) because the State does not provide for alternative demonstrations to the department to allow placement of non-hazardous liquid waste in a corrective action management unit (CAMU).

5. New York has several requirements related to the Uniform Hazardous Waste Manifest that are in addition to or more stringent than the corresponding Federal requirement. Such requirements include but are not limited to the following:

a. Unlike 40 CFR 262.20(b) & (c), at 372.2(b)(2)(i) New York requires written communication from the designated and alternate facility confirming their authorization to accept the manifested wastes.

b. At Appendix 30, General Information/Distribution, New York requires the generator to send copies of the forms to the generator State and the disposal facility State.

c. At 372.2(b)(2)(ii), New York requires that the generator know and indicate on the manifest the ultimate disposal method of the waste that is leaving its facility and provide State waste codes that are to be assigned to the ultimate disposal methods and recorded at Item 13 on the manifest. This State requirement is repeated

within the generator manifest instructions for Item 13 in Appendix 30.

d. At the following citations, the State program requires that manifests be mailed to the appropriate parties within 10 calendar days of delivery of the waste to the facility whereas the Federal program allows 30 days to send a copy to the generator: 372.2(b)(3), Appendix 30, General Information/Distribution, 373–2.5(b)(1)(i)(‘b’)(‘5’), 373–3.5(b)(1)(i)(‘b’)(‘5’), 373–2.5(b)(1)(vii), 373–3.5(b)(1)(vii).

e. At 373–2.5(a)(1) and 372–3.5(a)(1), New York does not adopt the Federal exemption from manifesting for waste military munitions at 40 CFR 264.70(a) and 265.70(a).

f. At 373–2.5(b)(1)(i)(‘b’) introductory paragraph & (‘b’)(‘1’) and 373–3.5(b)(1)(i)(‘b’) introductory paragraph & (‘b’)(‘1’) [analogous to 40 CFR 264.71(a)(2) and 265.71(a)(2)], the State program requires the receiving facility owner or operator to examine the manifest for completeness and complete those portions regarding the ultimate disposal method in the event they are unfinished.

g. At 372.7(d)(4), the State requires a copy of the signed and dated shipping paper to be sent to the generator if a manifest is not received within 15 days, whereas the Federal program, under 40 CFR 264.71(b)(4) and 265.71(b)(4), allows 30 days from the date of receipt of a manifest. Additionally, New York requires the facility to complete and submit an unmanifested waste report along with the shipping paper if a manifest is not received. Under 40 CFR 264.76(a), the Federal program only requires the report if the facility does not receive a manifest or a shipping paper.

h. At 373–2.5(b)(2) and 373–3.5(b)(2), the State program requires that an unmanifested waste report be filed with the State within 10 calendar days of acceptance of the shipment whereas at the introductory paragraphs at 40 CFR 264.76(a) and 265.76(a), the Federal provisions allow 15 days to send the report to the Regional Administrator.

Broader in Scope Requirements

We consider the following State requirements to be beyond the scope of the Federal program, and therefore, EPA is not authorizing these requirements:

1. At 373–4, New York implements a Household Hazardous Waste program and 370.2(b)(92) and (b)(93) contain definitions associated with the HHW program. The Federal program excludes household waste from regulation as hazardous waste at 261.4(b)(1).

2. At 371.4(c), New York retains K064, K065, K066, K090 and K091 as

hazardous wastes while EPA has removed them from the table at 40 CFR 261.32 and no longer regulates them as hazardous wastes (64 FR 56469; October 20, 1999).

3. New York’s transporter permit program is broader in scope than the Federal RCRA program which does not issue permits to transporters. The following New York provisions are broader in scope because they include requirements associated with the state’s transporter permit program: 372.2(b)(5)(ii), Appendix 30 Instructions for Generators/Item 8, 373–2.5(b)(3)(ii)(‘d’) & (‘e’), and 373–3.5(b)(3)(ii)(‘d’) & (‘e’).

4. New York subjects PCB wastes to regulation as hazardous waste; however, these wastes are not considered hazardous wastes under the Federal RCRA program. PCB wastes are regulated under the Federal Toxic Substances Control Act (TSCA) at 40 CFR part 761. The following New York provisions are broader in scope because they include requirements associated with the regulation of PCB waste as a state-only hazardous waste: 372.1(e)(9) and 376.1(g)(1)(i).

Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. Although you must comply with these requirements in accordance with State law, they are not RCRA requirements.

Non-Delegable Federal Rules

Finally, there are certain non-delegable provisions for which New York is not seeking authorization. These provisions include the EPA Manifest Registry functions at 40 CFR 262.21 adopted by reference at 6 NYCRR 372.2(b)(9) and 370.1(e)(3), and the EPA notification requirements for exports and imports of hazardous waste adopted at 6 NYCRR 372.5(j)(5), 372.3(b)(7)(i)(‘d’), 373–2.5(b)(1)(i)(‘c’) and 373–3.5(b)(1)(i)(‘c’) [analogous to 40 CFR 262.60(e), 263.20(g)(4), 264.71(a)(3) and 265.71(a)(3), respectively]. These Federal rules will continue to be the applicable requirements.

I. Who Handles Permits After the Authorization Takes Effect?

New York will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits still in effect which we issued prior to the effective date of this authorization, and also to process permit modification requests for facilities with existing permits. EPA will not issue any more new permits or new portions of permits for the provisions

listed in the Table above after the effective date of this authorization. Pursuant to § 3006(g)(1) of RCRA, EPA may continue to issue or deny permits to facilities within the State to implement those regulations promulgated under the authority of HSWA for which New York is not authorized.

J. How Does Today’s Action Affect Indian Country (18 U.S.C. 115) in New York?

The State of New York’s Hazardous Waste Program is not authorized to operate in Indian country within the State. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and is EPA Codifying New York’s Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State’s statutes and regulations that comprise the State’s authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. If this rule takes effect, or we finalize the companion proposal to authorize the State’s changes to its hazardous waste program, we may, at a later date, amend 40 CFR part 272, subpart HH to codify New York’s authorized program.

L. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA section 3006 and imposes no requirements other than those imposed by State law. Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

1. *Executive Order 12866: Regulatory Planning Review*—The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (56 FR 51735, October 4, 1993).

2. *Paperwork Reduction Act*—This rule does not impose an information collection burden under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

3. *Regulatory Flexibility Act*—After considering the economic impacts of today’s rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. *Unfunded Mandates Reform Act*—Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable

duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act (Pub. L. 104-4).

5. *Executive Order 13132: Federalism*—Executive Order 13132 (64 FR 19885, April 23, 1997) does not apply to this rule because it will not have federalism implications (*i.e.*, 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).

6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 (65 FR 67240, November 6, 2000) does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant and it is not based on health or safety risks.

8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action as defined in Executive Order 12866.

9. *National Technology Transfer Advancement Act*—EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 Note) does not apply to this rule.

10. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the

Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective on August 31, 2009.

List of Subjects in 40 CFR Part 271

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

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Dated: May 19, 2009.

George Pavlou,

Acting Regional Administrator, Region 2.

[FR Doc. E9-15543 Filed 6-30-09; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 74, No. 125

Wednesday, July 1, 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.

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2009–5; Order No. 229]

Periodic Reporting Rules

AGENCY: Postal Regulatory Commission.
ACTION: Proposed rule; availability of rulemaking petition.

SUMMARY: Under a new law, the Postal Service must file an annual compliance report with the Postal Regulatory Commission on costs, revenues, rates and quality of service associated with its products. It has filed a petition with the Commission to consider a change in the analytical methods approved for use in periodic reporting. This document provides an opportunity for the public to comment on potential changes in periodic reporting rules.

DATES: Comments are due by July 15, 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: On June 22, 2009, the Postal Service filed a petition to initiate an informal rulemaking proceeding to consider a change in the analytical methods approved for use in periodic reporting.¹ The Postal Service proposes to reduce the size of the sample that it uses to collect Origin-Destination Information System/Revenue Pieces and Weight (ODIS/RPW) data by 20 percent starting in the first quarter of FY 2010. The Petition explains that the Postal Service intends to eliminate 25,600 tests, thereby saving approximately \$6 million annually. It asserts that the reduction in

accuracy of the data collected is small and should be acceptable in view of the expense that it would avoid. In support of this assertion, the Petition includes two tables. Table 1 shows the estimated impact of the proposed reduction in sample size on the coefficients of variation (CVs) for volume and for revenue for the major categories of single-piece mail. Table 2 shows the estimated impact on the CVs for unit volume variable costs for those same categories of single-piece mail. The attachment to the Postal Service's Petition explains its proposal in more detail, including its background, objective, rationale, and estimated impact.

It is Ordered:

1. Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Change in Analytic Principles (Proposal One), filed June 22, 2009, is granted.

2. The Commission establishes Docket No. RM2009–5 to consider the matters raised by the Postal Service's Petition.

3. Interested persons may submit initial comments on or before July 15, 2009.

4. The Commission will determine the need for reply comments after review of the initial comments.

5. Diane Monaco is designated to serve as the Public Representative representing the interests of the general public in this proceeding.

6. The Secretary shall arrange for publication of this Notice in the **Federal Register**.

Authority: 39 U.S.C. 3652.

By the Commission.

Steven W. Williams,
Secretary.

[FR Doc. E9–15499 Filed 6–30–09; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R02–RCRA–2009–0346; FRL–8916–6]

New York: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: New York State has applied to EPA for final authorization of changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to New York for these changes, with limited exceptions, which are described in the “Rules and Regulations” section of this **Federal Register** notice. In that section, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we receive written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will either withdraw the immediate final rule, or the portion of the immediate final rule that is the subject of the comments. Only the remaining portion of the rule will take effect. We will then respond to those public comments opposing this authorization in a second final authorization notice. This second final notice may or may not include changes based on comments received during the public notice comment period. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by July 31, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–RCRA–2009–0346 by one of the following methods:

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

- *E-mail:* infurna.michael@epa.gov.

- *Fax:* (212) 637–4437.

- *Mail:* Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

- *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, Division of Environmental Planning and

¹ Petition of the United States Postal Service Requesting Initiation of a Proceeding To Consider Proposed Change in Analytic Principles (Proposal One), June 22, 2009 (Petition).

Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R02-RCRA-2009-0346. 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 <http://www.regulations.gov>, or e-mail. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You can view and copy New York's application during business hours at the following addresses: EPA Region 2

Library, 290 Broadway, 16th Floor, New York, NY 10007, Phone number: (212) 637-3185; or New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials, 625 Broadway, Albany, NY 12233-7250, *Phone number:* (518) 402-8730. The public is advised to call in advance to verify the business hours of the above locations.

FOR FURTHER INFORMATION CONTACT: Michael Infurna, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 22nd Floor, New York, NY 10007; telephone number (212) 637-4177; *fax number:* (212) 637-4377; *e-mail address:* infurna.michael@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: May 19, 2009.

George Pavlou,

Acting Regional Administrator, Region 2.

[FR Doc. E9-15546 Filed 6-30-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2009-0108]

Vehicle Safety Rulemaking and Research Priority Plan 2009-2011

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: The purpose of this request for comments is to solicit and acquire public comment on the NHTSA's "Vehicle Safety Rulemaking and Research Priority Plan 2009-2011." The plan is not an exhaustive list. Only programs and projects that are priorities or will take significant agency resources are listed. Furthermore, NHTSA's enforcement, data collection, and analysis programs—vital elements in achieving NHTSA's goals—have their own set of priorities that are not listed here. Each of these programs supports NHTSA's rulemaking and research priorities by providing necessary safety data, economic analysis, expertise on test procedures, and technical issues gleaned from enforcement experience. The plan is an internal management tool as well as a means to communicate to

the public NHTSA's highest priorities to meet the Nation's motor vehicle safety challenges. Among them are programs and projects involving rollover crashes, children (both inside as well as just near vehicles), motorcoaches and fuel economy that must meet Congressional mandates or Secretarial commitments. NHTSA is also currently in the process of developing a longer-term motor vehicle safety strategic plan that would encompass the period 2012 to 2020., and will be announced in a separate **Federal Register** notice.

DATES: Comments must be received no later than August 31, 2009.

ADDRESSES: You may submit comments [identified by Docket No. NHTSA-2009-0108] by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1-800-647-5527.
- *Fax:* 202-493-2251.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> and follow the online instructions, or visit Docket Management Facility at the street address listed above.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Carra, Director of Strategic Planning and Integration, National

Highway Traffic Safety Administration, Room W48-318, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-0361. E-mail: joseph.carra@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicle crashes killed more than 41,000 people and injured nearly 2.5 million others in more than 6 million police-reported crashes in 2007. In addition to the terrible personal toll, these crashes make a huge economic impact on our society with an estimated annual cost of \$230 billion,¹ an average of \$750 for every person in the United States.

Motor vehicle crashes can be viewed through several different perspectives:

- Vehicle type;
- Crashworthiness;
- Crash avoidance;
- Crash partners;
- Body region injured; and
- Societal costs.

Passenger vehicles still account for the majority of fatalities (70% or 28,933 fatalities), but also account for 92 percent of the vehicle miles traveled (VMT).

From the crashworthiness perspective, NHTSA looks at occupant fatalities or crash types by what part of the vehicle was struck first. Typically for passenger vehicles the initial impact point in fatal crashes would be frontal in 55 percent of fatalities, side impacts in 28 percent, non-collision (rollovers) in 8 percent, rear impacts in 5 percent, and others in 4 percent. However, rollovers can be examined as the initial impact, or as any event in the crash. If rollovers are examined as any event in the crash, almost 10,200 fatalities occur per year in rollovers, or about one-third of the passenger vehicle total.

From the crash avoidance perspective, NHTSA looks at types of crashes that might be mitigated by new technologies. Based on the General Estimates System (GES) and the Fatality Analysis Reporting System (FARS), four types of crashes total 85 percent of all crashes. These include Run-Off-Road (23%), Rear-End (28%), Lane Change (9%), and Crossing Path (25%). Those same four types of crashes also equal 75 percent of all road fatalities. These include Run-Off-Road (41%), Rear-End (5%), Lane Change (4%), and Crossing Path (14%).

The fourth perspective of looking at motor vehicle crashes is crash type with respect to what the vehicle impacted, if anything. For both passenger cars and light trucks, frontal crashes with other

motor vehicles account for the highest percentage of crash fatalities, 32 percent and 37 percent respectively. For passenger cars, side impacts with other motor vehicles and impact with fixed objects both account for 18 percent of fatalities. In fatal crashes involving light trucks, non-collisions (rollovers) remain an issue, accounting for 23 percent of crash fatalities.

A fifth and a sixth perspectives are those of body region injured and societal costs. Brain injuries and ankle and knee injuries that have long-term disability associated with them have very high societal costs.

NHTSA looks at crashes from all these different perspectives in determining the priorities for the agency. Countermeasures affect different types of crashes in different ways and have to be examined individually and compared to the applicable target population.

Programs and projects that warrant priority consideration fall into the following four categories: (1) large safety benefits; (2) vulnerable populations; (3) high-occupancy vehicles; and (4) other considerations

Programs and projects that are in Category 1, large benefits, have the potential for large safety benefits based upon factors such as:

- The size of the target population;
- The effectiveness of countermeasures and their potential to save lives and prevent injuries;
- The availability and practicability of these countermeasures; and
- The potential that countermeasures could be developed in the future that could be reasonably effective against a large target population.

It should be noted that some projects require additional research before specific countermeasures and their benefits can be identified and therefore the priority designation is based on the agency's judgment of potential safety impacts.

Programs and projects in Category 2, vulnerable populations, affect children, older people, the vision-impaired, or other populations that are considered vulnerable.

Category 3, high-occupancy vehicles, involves buses or motorcoaches and other high-occupancy vehicles.

Category 4, other considerations, includes priority projects that may not be captured in the other categories, but either reduce the impact of motor vehicles on energy security or address other specific items.

The plan also includes a list of other significant programs and projects that the agency believes it will work on in the 2009-2011 timeframe. This area is fluid, because the agency receives

petitions that require action, Congress may request that the agency address other areas, the Administration may set additional and/or different priorities, or some event may influence NHTSA's priority agenda.

Some programs and projects described in the plan require additional research before any rulemaking action can be taken. These programs may not be priorities now because NHTSA is not confident that an effective countermeasure can be found. However, with research going on, there is the possibility that countermeasures may be discovered that have the significant death and injury reduction benefits.

Since these are expected to consume a significant portion of the agency's rulemaking resources, they affect the schedules of the agency's other priorities listed in this plan. The concept of this plan, in terms of timing, is a little different than the 5-year priority plans that the agency has issued in the past. This plan lists the programs and projects the agency anticipates working on even though there may not be a rulemaking planned to be issued by 2011, and in several cases, the agency doesn't anticipate that the research will be done by the end of 2011. Thus, in some cases the next step would be an agency decision in 2012 or 2013.

The projects listed in the plan have been divided into the following program areas: Light-vehicle crash avoidance and mitigation advanced technologies, motorcycles, rollovers, front-impact occupant protection, side-impact occupant protection, rear-seat occupant protection, children, older people, global technical regulations (international harmonization), heavy vehicles, CAFE, and others (a catchall category for projects that don't fit in the listed program areas).

Crash avoidance projects and programs are listed first because their focus is on the first opportunity to save lives and reduce injuries by preventing crashes in the first place. In addition they serve to reduce property damage and traffic congestion that are the inevitable result of most crashes.

NHTSA seeks public review and comment on the planning document. Comments received will be evaluated and incorporated, as appropriate, into the planned agency activities. Interested persons may obtain a copy of the plan, "Vehicle Safety Rulemaking and Research Priority Plan 2009-2011," by downloading a copy of the document. To download a copy of the document, go to <http://www.regulations.gov> and follow the online instructions, or visit Docket Management Facility at the street address listed above under

¹ These estimates are in year 2000 dollars.

ADDRESSES and reference Docket No. NHTSA-2009-0108.

II. Submission of Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document in your comments. Please submit two copies of your comments, including attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto <http://www.regulations.gov>. Click on "How to Use This Site" and then "User Tips" to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy from which you have deleted the claimed confidential business information to the docket. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512).

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If a comment is received too late for us to consider it in developing a final plan, we will consider that comment as an informal suggestion for future revisions of the plan.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to <http://www.regulations.gov>.
2. On that page, in the field marked "search," type in the docket number provided at the top of this document.
3. The next page will contain results for that docket number; it may help you to sort by "Date Posted: Oldest to Recent."
4. On the results page, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments may not be word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Accordingly, we recommend that you periodically check the Docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

Authority: 49 U.S.C. 30111, 30117, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: June 25, 2009.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. E9-15523 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R2-ES-2009-0030; 92210-1111-FY08-B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Northern Leopard Frog (*Lithobates [=Rana] pipiens*) in the Western United States as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of a 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the western U.S. population of the northern leopard frog (*Lithobates [=Rana] pipiens*) as threatened under the Endangered Species Act of 1973, as amended (Act). Following a review of the petition, we find that the petition presents substantial scientific or commercial information indicating that listing the western U.S. population of northern leopard frog may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding to determine if listing the species throughout all or a significant portion of its range is warranted. To ensure that the status review of the northern leopard frog is comprehensive, we are soliciting scientific and commercial information and other information regarding this species.

DATES: We made the finding announced in this document on July 1, 2009. To allow us adequate time to conduct a status review, we request that information be submitted on or before August 31, 2009.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R2-ES-2009-0030; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

FOR FURTHER INFORMATION CONTACT: Steven L. Spangle, Field Supervisor,

Arizona Ecological Services Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Drive, Suite 103, Phoenix, AZ 85021; telephone 602-242-0210; facsimile 602-242-2513. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly commence a review of the status of that species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the northern leopard frog. We request information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the northern leopard frog. We are seeking information regarding:

(1) The historical and current status and distribution of the northern leopard frog, its biology and ecology, and ongoing conservation measures for the species and its habitat, and threats to the species and its habitat;

(2) information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(b) overutilization for commercial, recreational, scientific, or educational purposes;

(c) disease or predation;

(d) the inadequacy of existing regulatory mechanisms; or

(e) other natural or manmade factors affecting its continued existence and threats to the species or its habitat; and

(3) its taxonomy (particularly genetics of the western U.S. population and of the convergence zone of the eastern and western haplotypes in Wisconsin and Ontario, Canada).

If we determine that listing the northern leopard frog is warranted, it is our intent to propose critical habitat to the maximum extent prudent and determinable at the time we would propose to list the species. Therefore, with regard to areas within the geographical range currently occupied

by the northern leopard frog, we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species which are essential to the conservation of the species. Provide specific information as to what, if any, critical habitat should be proposed for designation if the species is proposed for listing, and why the suggested critical habitat meets the requirements of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*).

Please note that submissions merely stating support or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species shall be made "solely on the basis of the best scientific and commercial data available." At the conclusion of the status review, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Information and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information contained in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a status review of the species.

We received a petition dated June 5, 2006, from the Center for Native Ecosystems, Biodiversity Conservation Alliance, Defenders of Black Hills, Forest Guardians, Center for Biological Diversity, The Ark Initiative, Native Ecosystems Council, Rocky Mountain Clean Air Action, and Jeremy Nichols requesting that the northern leopard frog (*Lithobates* (=Rana) *pipiens*) occurring in the western United States (Arizona, California, Colorado, Idaho, Iowa, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming) be listed as a threatened distinct population segment (DPS) under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required in 50 CFR 424.14(a). In response to the petitioners' request, we sent a letter to the petitioners dated August 7, 2006, explaining that we would not be able to address their petition at that time. The reason for this delay was that responding to court orders and settlement agreements for other listing actions required nearly all of our listing funding. Delays in responding to the petition have continued due to higher priority actions, until funding recently became available to respond to this petition.

In reviewing the petition, there were two issues for which the Service requested clarification from the

petitioners. We were petitioned to list the population west of the Mississippi River and the Great Lakes region in the United States and south of the international boundary between the United States and Canada. However, the petition map does not show Wisconsin as a part of the petition, and the status of the species is not mentioned in that State. However, Wisconsin is located west of the Great Lakes region. Therefore, we requested that the petitioners clarify whether they intended to include or exclude Wisconsin from the petitioned DPS. The Service also sought clarification as to whether the petitioners were requesting we review only the western U.S. population of the northern leopard frog as a DPS or if they were also requesting us to consider listing the entire species or a significant portion of the range of the species. The petitioners responded to our clarification request in a letter dated February 8, 2008, requesting we review whether Wisconsin should be included in the western U.S. population of the northern leopard frog. In addition, the petitioners clarified that, if we find that listing the western U.S. population of northern leopard frogs as a DPS is not warranted, we review whether listing the entire species is warranted because of threats in a significant portion of its range.

Previous Federal Action

No previous Federal action has been taken on the northern leopard frog. The northern leopard frog has no Federal regulatory status under the Act.

Species Information

The northern leopard frog is in the family Ranidae (Frost *et al.* 2008, pp. 7–8), the true frogs, and is 1 of about 29 species within the genus *Lithobates* that occur in North America (Lannoo 2005, p. 371). The northern leopard frog is a smooth-skinned green, brown, or sometimes yellow-green frog covered with large, oval dark spots, each of which is surrounded by a lighter halo or border (Stebbins 2003, pp. 234–235). Adult snout-vent lengths range from 2 to 4.5 inches (5 to 11 centimeters) (Stebbins 2003, p. 234). Citations within the petition provide a more detailed description of the northern leopard frog (Baxter and Stone 1985, pp. 41–42; Hammerson 1999, pp. 145–146; Patla and Keinath 2005, p. 13).

The northern leopard frog requires a mosaic of habitats, which includes overwintering, breeding, and upland post-breeding habitats, as well as habitat linkages, to meet the requirements of all of its life stages (Pope *et al.* 2000, p. 2505; Smith 2003, pp. 6–15). Northern

leopard frogs breed in a variety of aquatic habitats that include slow-moving or still water along streams and rivers, wetlands, permanent or temporary pools, beaver ponds, and human-constructed habitats such as earthen stock tanks and borrow pits (Rorabaugh 2005, p. 572). Breeding areas typically do not contain predaceous fish or other predators (Merrell 1968, p. 275; Smith 2003, pp. 19–21), and emergent vegetation such as sedges and rushes are thought to be important features of breeding and tadpole habitats (Smith 2003, pp. 8–9).

Sub adult northern leopard frogs typically migrate to feeding sites along the borders of larger, more permanent bodies of water (Merrell 1970, p. 49). Recently metamorphosed frogs will move up and down drainages and across land in an effort to disperse from breeding areas (Seburn *et al.* 1997, p. 69); however, in some areas of the western United States, subadults may remain in the breeding habitat within which they metamorphosed (Smith 2003, p. 10). In addition to the breeding habitats, adult northern leopard frogs require stream, pond, lake, and river habitats for overwintering and upland habitats adjacent to these areas for summer feeding. In summer, adults and juveniles commonly feed in open or semi-open wet meadows and fields with shorter vegetation, usually near the margins of water bodies, and seek escape cover underwater. During winter, northern leopard frogs are found inactive underwater on the bottom of deeper streams or waters that do not freeze to the bottom and are well-oxygenated (Stewart *et al.* 2004, p. 72).

As soon as males leave overwintering sites, they travel to breeding ponds and call in shallow water (Smith 2003, p. 13). Male frogs attract females by calling from specific locations within a breeding pond, with several males typically calling together to form a chorus (Merrell 1977, p. 7). Eggs are typically laid within breeding habitats, two to three days following the onset of chorusing (Corn and Livo 1989, p. 5). Eggs are laid and larvae typically develop in shallow, still water that is exposed to sunlight. Eggs are usually attached to vegetation, just below the water surface. Egg masses may include several hundred to several thousand eggs (Lannoo 2005, p. 371) and are deposited in a tight, oval mass (Rorabaugh 2005, p. 572). Time to hatching is correlated with temperature and ranges from 2 days at 81 degrees Fahrenheit (27 degrees Centigrade) to 17 days at approximately 53 degrees Fahrenheit (12 degrees Centigrade) (Nussbaum *et al.* 1983, p. 182).

Northern leopard frog tadpoles are predominantly generalist herbivores, typically eating attached and free-floating algae (Hoff *et al.* 1999, p. 215), however they may feed on animal material (Hendricks 1973, p. 100). Adult and subadult frogs are generalist insectivores (Merrell 1977, p. 15; Smith 2003, p. 12). Prey includes insects, spiders, mollusks, and crustaceans.

A genetic study published in 2004 using mitochondrial DNA (mtDNA) reports that the northern leopard frog is split into two populations containing discrete eastern and western mtDNA markers (haplotypes), with the Mississippi River and Great Lakes region dividing the geographic ranges (Hoffman and Blouin 2004, p. 152). Results of the study indicate that the two populations have been isolated for approximately 2 million years, except for a small zone of likely secondary contact in Ontario, Canada.

The northern leopard frog historically ranged from Newfoundland and southern Quebec, south through New England to West Virginia, west across the Canadian provinces and northern and central portions of the United States to British Columbia, Oregon, Washington, and northern California, and south to Arizona, New Mexico, and extreme western Texas (Rorabaugh 2005, p. 570). However, since the 1970s the northern leopard frog has experienced significant declines throughout its range, particularly in the western United States and Canada (Corn and Fogelman 1984, p. 147; Hayes and Jennings 1986, p. 491; Clarkson and Rorabaugh 1989, p. 534; Weller and Green 1997, p. 323; Casper 1998, p. 199; Leonard *et al.* 1999, p. 51; Smith 2003, pp. 4–6). The species tends to become less abundant the further west one proceeds. The northern leopard frog is now considered uncommon in a large portion of its range in the western United States, and declines of the species have been documented in most western States (Rorabaugh 2005, pp. 570–571; Smith 2003, pp. 4–6; Stebbins 2003, p. 235).

Distinct Population Segment

We consider a species for listing under the Act if available information indicates such an action might be warranted. “Species” is defined in section 3 of the Act to include any subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532 (16)). We, along with the National Marine Fisheries Service (now the National Oceanic and Atmospheric Administration—Fisheries), developed

the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS Policy) (February 7, 1996; 61 FR 4722) to help us in determining what constitutes a DPS. The policy identifies three elements that we are to consider in making a DPS determination. These elements include: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing. If we determine that a population segment meets the discreteness and significance standards, then the level of threat to that population segment is evaluated, based on the five listing factors established by the Act, to determine whether listing the DPS as either threatened or endangered is warranted.

Discreteness

Citing the Services' DPS policy (61 FR 4722), the petition asserts that the western U.S. population of the northern leopard frog may qualify as a DPS based on discreteness. The DPS policy states that a population may be considered discrete if it satisfies either one of the following conditions:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation; or

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

The petitioners assert that the western U.S. population of the northern leopard frog is markedly separated and geographically isolated from the eastern population, based on genetic differences and analyses of haplotypes (Hoffman and Blouin 2004, pp. 145–159). A haplotype is a set of closely linked genetic markers that are present on one chromosome and tend to be inherited together. The petitioners cited Hoffman and Blouin (2004) to support their assertion that the western U.S. population of the northern leopard frog is discrete. The petition states that there is a marked separation of western populations from eastern populations based on the following measures from Hoffman and Blouin (2004, pp. 145–159): (1) Eastern and western haplotypes have been differentiated for approximately 2 million years; (2)

eastern and western haplotypes are divided by the Mississippi River and Great Lakes; and (3) there is an average sequence divergence of 3 percent between eastern and western haplotypes.

The only area of potential overlap between the eastern and western population of northern leopard frog occurs north of the Great Lakes region in Ontario (Hoffman and Blouin 2004). Only one population (located near Attawapiskat, Ontario) appears to be in an area of geographic convergence of eastern and western haplotypes. This population is located north of the Great Lakes region, and contains both eastern and western haplotypes, likely due to secondary contact during the current interglacial period. Thus, it represents the maximum extent of postglacial eastward expansion of the western haplotypes and westward expansion of the eastern haplotypes (Hoffman and Blouin 2004, p. 152). Several studies on both plants and animals have documented a genetic discontinuity associated with the Mississippi River region (Fontanella *et al.* 2007, p. 1063).

Thus, based on the Hoffman and Blouin (2004) genetic analyses, the petitioners believe that the western population is not only markedly separated from the eastern population in relation to its genetics, but clearly geographically isolated and discrete in relation to the eastern northern leopard frog population. The petition asserts that the genetic differentiation between the haplotypes of eastern and western northern leopard frogs, which was found to average 3 percent, is considered to be relatively high for an intraspecific comparison (Hoffman and Blouin 2004, p. 152). Hoffman and Blouin (2004, p. 152) explain that this amount of genetic variation is comparable to that found between some recognized species of frogs in the family Ranidae (ranid frogs) such as *R. pretiosa*-*R. luteiventris*, about 3 percent (K. Monsen and M.S. Blouin, unpubl. data). In addition, Jaeger *et al.* (2001, pp. 339–354) found that there was about 4.7 percent genetic variation between *R. yavapaiensis* and *R. onca*, and approximately 4.9 percent genetic variation between *R. blairi* and *R. berlanderi*. However, the purpose of the Hoffman and Blouin (2004) study was not to undertake taxonomic revisions, but to better understand the evolutionary history of the northern leopard frog; as such, the authors do not recommend splitting the northern leopard frog into two distinct species based upon their analyses. The authors do recommend that further work be conducted on the taxonomic status of

the two northern leopard frog populations to further understand their initial findings.

As stated above, a population may be considered discrete if it satisfies either one of the discreteness conditions listed in the policy. The second condition is that the petitioned population be delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act. Section 4(a)(1)(D) of the Act discusses the adequacy of existing regulatory mechanisms in the Act's "5-factor" analysis for determining whether a species is threatened or endangered. In assessing a population for discreteness based on delimitation by international governmental boundaries, we focus specifically on whether the factors named above are significantly different between the two countries because of the inadequacy of existing regulatory mechanisms.

The petitioners state that the western U.S. population of the northern leopard frog is delimited by international government boundaries, namely between Canada and the United States (Smith 2003, p. 5). The petitioners reference Seburn and Seburn (1998, pp. 4–11) in providing information documenting significant declines in northern leopard frog populations in British Columbia, Alberta, Manitoba, southern Northwest Territories, Saskatchewan, and western Ontario. In British Columbia, only one northern leopard frog population is known to remain (Seburn and Seburn 1998, p. 10). The species has also disappeared from much of its range in Alberta since 1979 (Seburn and Seburn 1998, p. 10). In Manitoba and Saskatchewan, the northern leopard frog experienced significant declines in the 1970s and many dead and dying frogs were found (Seburn and Seburn 1998, p. 9). Less is known about the status of the frog in the Northwest Territories, but the species is reported from only nine sites, all of which are fragmented and isolated from populations further south in Alberta and Manitoba (Seburn and Seburn 1998, pp. 6, 8). Declines have also occurred in northern and southwestern Ontario (Seburn and Seburn 1998, p. 10; Hecnar 1997, p. 9).

The petition claims that habitat declines throughout the Canadian range of the northern leopard frog have also been significant (Seburn and Seburn 1998, p. 13). The decline is thought to be related to the loss of wetland habitat throughout Canada. Approximately 65 to 80 percent of historical wetlands in

Canada have been drained, mostly for agriculture and urban development (Natural Resources Canada 2004, p. 1), and are considered to be an endangered habitat (Findlay and Houlihan 1997, p. 1001). Seburn and Seburn (1998, p. 13) describe this loss of habitat as occurring throughout all of the provinces, with southern Saskatchewan having 59 percent of its wetland basins and 78 percent of its wetland margins affected by agriculture.

The Committee on the Status of Endangered Wildlife in Canada determines the national status of wild species, subspecies, varieties, and nationally significant populations that are considered to be at risk in Canada (Seburn and Seburn 1998, p. vi). The British Columbia population (Southern Mountain Region) is listed as Endangered under the Species at Risk Act, which provides protection similar to that of the Endangered Species Act in the United States. The northern leopard frog is also on the provincial Red List and is listed as "Endangered" under British Columbia's Wildlife Act, and as "Threatened" under Alberta's Wildlife Act (Alberta Northern Leopard Frog Recovery Team 2005, p. 1). However, the provincial Wildlife Acts do not prohibit take of listed species or provide a means by which agencies must ensure their actions are not jeopardizing the species. Neither Saskatchewan nor Ontario affords the northern leopard frog any specific protection (Seburn and Seburn 1998, p. 7). In the United States, northern leopard frog protection and collection policies are implemented by a wide variety of Federal and State agencies. States predominately control the management, collection, and importation of the species throughout its range, while Federal land management agencies manage habitat for the species, particularly throughout the western portion of its range. Therefore, because of differences in regulatory mechanisms between the United States and Canada, we find there is evidence to suggest that the international boundary with Canada may be significant in terms of section 4(a)(1)(D) of the Act.

The Service's DPS policy requires that only one of the discreteness criteria be satisfied in order for a population of a vertebrate species to be considered discrete. After reviewing the information provided in the petition, we believe that the petition presents substantial information that the northern leopard frog western U.S. population may be physically isolated from northern leopard frogs in the eastern United States and may be genetically distinct. In addition, it

presents substantial information that differences in regulatory mechanisms between the United States and Canada may be significant in terms of section 4(a)(1)(D) of the Act. Therefore, we find that the petition presents substantial information indicating that the northern leopard frog in the western United States may satisfy the discreteness element of the DPS policy.

Significance

If we determine that a population meets the DPS discreteness element, we then consider if it also meets the DPS significance element. The DPS policy (61 FR 4722) states that if a population segment is considered discrete under one or more of the discreteness criteria, its biological and ecological significance will be considered in light of Congressional guidance that the authority to list DPSs be used "sparingly" while encouraging the conservation of genetic diversity. In making this determination, we consider available scientific evidence of the discrete population's importance to the taxon to which it belongs. Since precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all of the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS policy does provide four possible reasons why a discrete population may be significant. As specified in the DPS policy (61 FR 4722), this consideration of significance may include, but is not limited to, the following:

- (1) Persistence of the discrete population segment in an ecological setting unusual or unique to the taxon;
- (2) Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon;
- (3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or
- (4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

The petition asserts that the western U.S. population of the northern leopard frog, being discrete from other populations, also meets the significance element of the DPS policy for two of the four reasons above: (1) Loss of the population would create a significant gap in the range of the taxon and (2) the population differs markedly from the eastern population based on genetic characteristics.

The petitioners present three reasons why the loss of the western U.S. population would represent a significant gap in the range of the species. First, it would represent an approximately 50 percent loss in the historical range of the species. Second, the loss of the western U.S. population would leave only frogs in western Canada to represent the western population of northern leopard frog, thereby creating a significant gap in the range. Third, loss of the western U.S. population would create an irreversible gap in the range of the species because the Mississippi River and Great Lakes are barriers to dispersal by the eastern population into the western United States.

According to the petition, the western U.S. portion of the range in 19 western and Midwestern States west of the Mississippi River and the Great Lakes region constitutes approximately 50 percent of the historical overall range and nearly 70 percent of the western population in the United States and Canada (Rorabaugh 2005, p. 571). The petition states that the species' range has declined in almost every State that it inhabits in the western United States.

The most recent summary of distributional and abundance patterns of the northern leopard frog is from Rorabaugh (2005, pp. 570–577), which documents a substantial contraction of the species' range, especially in the western two-thirds of the United States, where widespread extinctions have occurred. Information provided in the petition indicates that the species is declining, considered rare, or locally extinct from historical locations in Arizona, California, Colorado, Idaho, Iowa, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Texas, Utah, Washington, Wisconsin, and Wyoming (Hayes and Jennings 1986, p. 491; Stebbins and Cohen 1995, p. 220; Johnson and Batie 1996; Bowers *et al.* 1998, p. 372; Casper 1998, p. 199; Lannoo 1998, p. xvi; Mossman *et al.* 1998, p. 198; Smith 2003, pp. 4–6; McCleod 2005, pp. 292–294; Rorabaugh 2005, p. 571; Smith and Keinath 2004, pp. 57–60). The species is possibly extirpated from almost 100 percent of its historical range in Texas, California, Oregon, and Washington (Stebbins and Cohen 1995, p. 220; McAllister *et al.* 1999, p. 15; Stebbins 2003, p. 235). The status of the frog is not clear in South Dakota. Smith (2003, p. 39) states that, although northern leopard frogs may still be common in the Black Hills, surveys are incomplete, monitoring does not occur, and no habitat delineation has been completed for the species. The

petitioners estimate a decline of at least 35 percent based on estimates of wetland loss in the State. In summary, the petition presents substantial information that the northern leopard frog is declining in the western United States, that such a large geographic area may represent a significant part of the range, and that loss of the western U.S. population may create a significant gap in the range of the species.

The petition also argues that the western U.S. population is isolated, peripheral and genetically different, and that it is important to the survival, evolution, and conservation of the species. The petitioners argue that the western U.S. population of the northern leopard frog is significant because it is markedly different from the eastern population based on genetic characteristics and because its loss would represent a significant gap in the range of the species. Citing Hoffman and Blouin (2004, p. 152), the petition presents information that the level of mtDNA genetic variation between the eastern and western populations of 3 percent is relatively high for an intraspecific comparison of ranid frogs, akin to the genetic difference between the Columbia spotted frog (*Rana luteiventris*) and the Oregon spotted frog (*R. pretiosa*). The western population also differs from the eastern population in having significantly lower diversity of genetic materials (nucleotides) (Hoffman and Blouin 2004, p. 151).

Based on the significant gap in the species' range that potentially would be created by the loss of the western U.S. population and the potential genetic differences, we find that the petition presents substantial information that the western U.S. population of the northern leopard frog may satisfy the significance element of the DPS policy.

DPS Conclusion

We have reviewed the information presented in the petition, and have evaluated the information in accordance with 50 CFR 424.14(b). In a 90-day finding, the question is whether a petition presents substantial information that the petitioned action may be warranted. Based on our review, we find that the petition, supported by information in our files, presents substantial scientific or commercial information to indicate that the western U.S. population of the northern leopard frog may be a DPS based on genetic evidence. The information presented in the petition presents substantial scientific or commercial information to demonstrate that the western U.S. population of the northern leopard frog may be discrete from the eastern U.S.

population. Further, the petition also presents substantial information that the western U.S. population of the northern leopard frog may be significant to the taxon as a whole. Thus, the western U.S. population of the northern leopard frog may be a listable entity under the Act as a DPS. To meet the third element of the DPS policy, we evaluate the level of threat to the DPS based on the five listing factors established by the Act. We thus proceeded with an evaluation of information presented in the petition, as well as information in our files, to determine whether there is substantial scientific or commercial information indicating that listing this population may be warranted. Our threats analysis and conclusion follow.

Threats Evaluation

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species, subspecies, or distinct population segment of vertebrate taxa may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information regarding the northern leopard frog as presented in the petition and other information available in our files is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

The petitioners assert that loss and degradation of habitat has been widespread and has affected the species in every State in the western United States in which the northern leopard frog is historically known to have occurred (Maxell 2000, p. 15; Hitchcock 2001, pp. 64–66; Rorabaugh 2005, p. 576; Clarkson and Rorabaugh 1989, p. 535; Smith 2003, p. 26–31). Habitat loss and degradation is reported to be the primary threat to all ranid frogs in the western United States (Bradford 2005, p. 923) and a principal threat to northern leopard frogs in the western United

States (Smith 2003, p. 4; Rorabaugh 2005, p. 571). The petition asserts that the northern leopard frog is threatened with loss and degradation of habitat due to livestock grazing, agricultural development, urban development, oil and gas development, road development, poor forestry practices, groundwater pumping, mining, and invasive species.

The petitioners claim that western U.S. northern leopard frog populations are vulnerable to local extirpation from the effects of livestock grazing (Maxell 2000, pp. 15–16; Smith 2003, p. 30). Specifically, the petition states that livestock grazing may result in the trampling of individual frogs (Maxell 2000, p. 15; Smith 2003, p. 30) and may trample soils around aquatic habitats, thereby decreasing infiltration of water into the soil, increasing soil erosion, and contributing to stream channel down cutting (Kauffman and Kreuger 1984, pp. 432–434; Belskey *et al.* 1999, pp. 419–431). These impacts could hinder or prevent movements of northern leopard frogs by reducing and eliminating riparian vegetation that provides cover. Impacts to water quality through increased sedimentation (Belskey *et al.* 1999, pp. 420–424) may reduce the depth of breeding ponds or overwintering habitats, increase water temperatures, and create favorable environments for diseases and parasites known to contribute to mortality in northern leopard frogs (Maxell 2000, pp. 15–16; Johnson and Lunde 2005, pp. 133–136; Ouellet *et al.* 2005, p. 1435).

The petitioners note that livestock grazing and associated actions are specifically identified as being responsible for habitat loss and degradation and negatively affecting northern leopard frog populations at some sites in Arizona (Clarkson and Rorabaugh 1989, p. 535; Sredl 1998, pp. 573–574), California (California Department of Fish and Game 2008), Idaho (Idaho Department of Fish and Game 2005, Appendix F), Montana (Maxell 2000, p. 15), Nevada (Hitchcock 2001, p. 66), North Dakota (Euliss, Jr. and Mushet 2004, p. 82), and South Dakota (Smith 2003, p. 27). In addition, the petition lists approximately 281 grazing allotments on Forest Service National System Lands in Colorado, Nebraska, New Mexico, South Dakota, and Wyoming that the U.S. Forest Service (Forest Service) determined would adversely impact northern leopard frogs. We did not verify each of these allotment determinations, but the Forest Service Region 2 website (accessed April 24, 2008) does contain documents noting adverse effect determinations for the northern leopard

frog resulting from livestock grazing (for instance, see Forest Service 2005a and Forest Service 2003 as cited in the petition). Information in our files also indicates that leopard frogs may be able to persist with well-managed livestock grazing (Hitchcock 2001, p. 62; Service 2007, pp. 32–34).

The petitioners state that agricultural development may directly destroy northern leopard frog habitat due to dewatering or indirectly through the introduction of contaminants and invasive species into habitats (Leonard *et al.* 1999, p. 58; Leja 1998, pp. 345–353; Rorabaugh 2005, p. 576). The petitioners provide information indicating that agricultural development has occurred throughout the range of the northern leopard frog, but particularly in the Midwestern States (Leja 1998, p. 349). The petition presents 1990 data that indicate that greater than 90 percent of the total land area in Iowa, Nebraska, North Dakota, and South Dakota is used for agricultural purposes (*Demographia* 2000). Agricultural development can result in modification of river valley habitat, including draining of wetlands, channelization and damming of rivers, and the development of irrigation systems (Wang *et al.* 1997, p. 11; Findlay and Houlahan 1997, p. 1001), all of which may modify breeding, overwintering, and dispersal habitat for northern leopard frogs.

The petition presents information on urbanization of the western United States and the resulting loss of northern leopard frog habitat throughout the western States (Hitchcock 2001, pp. 64–66). The petitioners provide information from the U.S. Census Bureau (2006) that the only State within the range of the northern leopard frog in the western United States that is not gaining human population is North Dakota. Projected population growth is expected to result in increased needs for water (surface diversions and groundwater pumping) to support growth (Deacon *et al.* 2007, p. 688). This could decrease water availability for northern leopard frogs and thereby impact the amount and extent of habitat for northern leopard frogs.

The petitioners also discuss how oil and gas development threatens the northern leopard frog and its habitat in the western United States. The petition states that the Bureau of Land Management (BLM) and Forest Service have determined that the drilling and maintenance of wells, related construction of roads, and disposal of wastes resulting from oil and gas development will negatively affect the northern leopard frog. The petitioners argue that oil and gas development in

the Black Hills of South Dakota, northern Idaho, Wyoming, and the Arkansas River drainage in Colorado are reported to have disturbed habitat, altered hydrology, introduced contaminants into water, and reduced the availability of water for the frog. Coal-bed methane development is currently occurring primarily in Wyoming, but the petitioners note that other western States may be impacted in the future. Impacts associated with coal-bed methane development include road-related mortality, discharge of contaminated water into breeding ponds, loss of spring flows related to groundwater withdrawals, discharge of extremely cold water into breeding habitats, and discharge of water containing nonnative predatory fish in these same areas (Allan 2002, pp. 5–8; Gore 2002, pp. 1–14; Noss and Wuethner 2002, pp. 1–20). Mining and oil and gas development may also lead to contamination of habitats (Smith 2003, pp. 26, 31; Spengler 2002, pp. 7–26).

The petition presents information and cites references indicating that roads may pose barriers to dispersal and contribute nonpoint source pollution (Smith 2003, pp. 27, 38; Maxell 2000, p. 25; Fahrig *et al.* 1995, pp. 177–182). Road building is often tied to other activities such as oil and gas, urban, and agricultural development, so the indirect effects of road construction, maintenance, and use could negatively affect northern leopard frog populations.

The petition also claims that timber harvest activities may be a threat to northern leopard frog populations (Maxell 2000, pp. 12–14; Smith 2003, p. 29). The petitioners state that the Forest Service has determined that logging activities planned on the Arapaho-Roosevelt, Routt, Medicine Bow, Bighorn, and Black Hills National Forests (Colorado, South Dakota, and Wyoming) would adversely affect the northern leopard frog, and cite several project planning and land use plan documents prepared by the Forest Service (Center for Native Ecosystems *et al.* 2006, pp. 186–191). Smith (2003, p. 29) found that the northern leopard frog may be especially affected by logging on the Black Hills National Forest of western South Dakota and northeastern Wyoming more than 80 percent of the 1.2 million-acre (485,623 hectare) National Forest is forested, most areas were harvested three or four times in the last century, and logging projects may include cutting within approximately 500 feet (152.4 meters) of breeding ponds. However, it may be difficult to predict the extent of the potential negative impact to northern leopard

frogs due to our poor understanding of their use of upland habitat.

The petition lists 11 harvesting projects where the Forest Service authorized cutting within 100 feet of breeding habitats. Information cited in the petition indicates that this practice may result in increased sedimentation, increased temperature, and reduced dispersal corridors for leopard frogs (Smith 2003, pp. 29–38). The petition focuses on the effects to northern leopard frogs on the Black Hills National Forest and does not show how this threat may be affecting northern leopard frogs across the western United States. However, information in our files indicated that fuels reduction and logging occur throughout the western range of the northern leopard frog and that logging operations in riparian areas should maintain buffers near riparian habitats or only conduct partial harvests of trees to mitigate the effects of timber harvest to amphibians (Perkins and Hunter 2006, pp. 664–668; McComb *et al.* 1993, pp. 7–15).

The petitioners provide limited information regarding the effects of groundwater depletion, but information in our files indicates that pumping groundwater can decrease spring output and recharge in many areas (Wirt *et al.* 2005, pp. G1–11; Alley *et al.* 1999, pp. 33–44). The petition does note that groundwater depletion may have reduced the availability of surface water in areas across the range of the western portion of the northern leopard frog. In addition, the petition gives two examples from Nevada and New Mexico to describe how groundwater pumping may impact leopard frog habitat. Brussard *et al.* (1998, pp. 505–542) found that pumping of groundwater from gold mines threatened spring communities in the north-central region of Nevada. Groundwater pumping by the city of Albuquerque, New Mexico, has contributed to the loss of wetland habitat in the Rio Grande valley as well (Bogan 1998, pp. 562–563).

The petition also identifies the introduction of nonnative aquatic animal and plant species as a threat to the northern leopard frog. Nonnative animals (e.g., crayfish, bullfrogs, and fish) may displace northern leopard frogs by degrading habitat (e.g., destroying emergent vegetation, increasing turbidity, and reducing algal or invertebrate populations) or through direct predation on eggs, tadpoles, and even adult leopard frogs. The petitioners state that nonnative, invasive plants may also threaten northern leopard frog habitat in the western United States (Maxell 2000, pp. 21–22; Hitchcock 2001, pp. 5–6). Tamarisk and other

nonindigenous aquatic and terrestrial plants may alter riparian habitats by forming dense stands that exclude native amphibians (Maxell 2000, p. 21) and enhance the survival of other introduced species, such as bullfrogs (*Lithobates catesbeiana*), which compete with and predate northern leopard frogs (Adams *et al.* 2003, pp. 343–351; Maxell 2000, p. 21; Hitchcock 2001, pp. 5–6, 62–66).

Citing Jezouit 2004 (pp. 423–445), the petitioners state that the emissions of certain gases into the air may lead to acid precipitation and the acidification of aquatic habitats, which then leads to the direct destruction of vegetation needed for habitat (EPA 2000, pp. 48699–48701). Additionally, as discussed under Factor D, the petitioners state that the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide, which contributes to the formation of acid precipitation, are not adequate and do not protect aquatic ecosystems from the adverse impacts of acid precipitation and acidification impacts. They cite literature indicating that continued acid precipitation may cause vegetation damage under the current sulfur dioxide NAAQS. The petitioners state this information indicates that the current NAAQS allow for the emission of sulfur dioxide that may harm northern leopard frog habitat. We were unable to locate the documents cited by the petitioners for this claim.

The petitioners make the same claim for nitrogen dioxide, which also contributes to the formation of acid rain (Baron *et al.* 2000, p. 352; Fenn *et al.* 2003, p. 404; Jezouit 2004, pp. 423–445; EPA 2005, p. 59594); nitrogen dioxide can increase the acidity of soils and aquatic ecosystems, may contribute to eutrophication (a process whereby increased nutrients leads to decreased dissolved oxygen), and may possibly change plant community composition (*e.g.*, enhanced growth of invasive species and shifts in phytoplankton productivity) (Baron *et al.* 2000, p. 358; Fenn *et al.* 2003, pp. 404–418). The petitioners contend that scientific studies document continued acid precipitation and adverse habitat effects from nitrogen deposition under the current NAAQS (Baron *et al.* 2000, p. 365; Fenn *et al.* 2003, pp. 417–418).

The petition also considers water pollution to be a significant threat to the northern leopard frog (Leja 1998, pp. 345–348; Smith and Keinath 2004 pp. 46–53; Bradford 2005, p. 917). The petition claims that agriculture is the primary source of water pollution throughout the western range of the northern leopard frog and that this

water pollution occurs primarily through sedimentation, nutrient pollution, pesticide pollution, and mineral pollution (Ribauda 2000, pp. 5–11). Bradford (2005, p. 919) indicates that chemical contamination of water (defined as pollution; acid precipitation; acid mine drainage; mine water pollution; sewage; and, heavy metals) was the third most implicated adverse factor for frog population decline in the United States.

Based on our evaluation of the information presented in the petition and available in our files regarding the livestock grazing, agricultural development, urban development, oil and gas development, road development, forestry practices, groundwater pumping, mining, invasive species, air emissions, and water pollution within the range of the northern leopard frog, we find that the petition presents substantial information. Therefore, listing the western U.S. population of the northern leopard frog may be warranted due to the present or threatened destruction, modification, or curtailment of habitat or range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petitioners state that overutilization of the northern leopard frog is not reported to be a threat to the species in the western United States except in Minnesota and Nebraska, where large numbers of leopard frogs are used for commercial purposes, and collection has likely contributed to population declines (Moriarty 1998, p. 168; Smith 2003, p. 21). From 1995–1999, approximately 174,772 northern leopard frogs were collected in Nebraska to supply only two biological supply houses (Smith 2003, p. 21). In addition, northern leopard frogs in Minnesota have been heavily collected for fish bait and for the biological supply trade (Moriarty 1998, p. 168).

In 1971, Gibbs *et al.* (p. 1027) published a paper describing the frog trade and the decline of northern leopard frogs throughout most of their range. However, due to the declines noted by Gibbs *et al.* (1971), many States began establishing laws to prevent uncontrolled collecting. Today, State wildlife agencies, including those in the western United States, use commercialization and collection regulations to control human actions that may harm wildlife populations, such as collection of amphibians (Adams *et al.* 1995, p. 394). Although these regulations may be somewhat inconsistent among States, information

in our files indicates that, except for the isolated instances cited by the petition, overutilization does not appear to threaten the western U.S. population of the species. Therefore, we find that the petition and information in our files do not provide substantial information to support the claim that the western U.S. population of the northern leopard frog may be threatened by overutilization for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

The petition states that the western U.S. northern leopard frog is threatened by fungal, viral, and bacterial diseases, all of which may cause mass mortality and/or contribute to population decline (Rorabaugh 2005, pp. 575–577). The petition provides information from the U.S. Geological Survey in 2006 (Table 16 in petition, pp. 96–97) indicating that disease has caused mass mortality in ranid frogs in almost every western State in the United States. There are several fungal diseases that affect the northern leopard frog (Faeh *et al.* 1998, p. 263); of those, amphibian chytridiomycosis caused by the fungus *Batrachochytrium dendrobatidis* (Bd) has likely had a large impact on northern leopard frogs in the western United States. Mortality from Bd is reported for several leopard frog species, including the northern leopard frog, in Arizona, California, and Colorado (Bradley *et al.* 2002, pp. 206–212; Muths *et al.* 2003, p. 361; Briggs *et al.* 2005, p. 3149). Information in Muths *et al.* (2003, p. 364) notes a northern leopard frog museum specimen from Colorado preserved in 1974 was examined histologically and tested positive for Bd, which means the presence of Bd in Colorado can be traced back to the 1970s.

The petition also cites information from recent studies that indicates that factors such as habitat degradation, habitat fragmentation, and climate change may exacerbate the lethal effects of Bd on amphibian populations (Carey *et al.* 1999, pp. 459–472; Ouellet *et al.* 2005, p. 1437). Habitat fragmentation may prevent populations from recovering after lethal outbreaks of Bd (Ouellet *et al.* 2005, p. 1437), and other stressors such as water pollution may make northern leopard frogs more susceptible to Bd (Carey *et al.* 1999, pp. 459–472; Kiesecker *et al.* 2004, p. 138). The petition provides information indicating that saprolegniasis, a water-borne fungal disease, may also threaten populations of northern leopard frogs (Faeh *et al.* 1998, p. 263). However, this fungal disease is usually secondary to other stressors such as bacterial

infections or trauma (Faeh *et al.* 1998, p. 263). The petition asserts that saprolegnia has been associated with embryonic die-offs of ranid frogs in Oregon, and is found in Columbia spotted frog eggs in Idaho and Montana (Patla and Keinath 2005, p. 43), but there is no other information provided to indicate that this disease is a threat to northern leopard frogs.

Faeh *et al.* (1998, pp. 260–261) are also cited as a source of information regarding five viral diseases that have and could potentially affect the northern leopard frog. These include the iridoviruses, which include ranavirus, polyhedral cytoplasmic amphibian virus, tadpole edema virus, and frog erythrocytic virus. Ranavirus may be extremely lethal, and all life stages of frogs may acquire the disease, although tadpoles are the most susceptible to the disease (Daszak *et al.* 1999, p. 744). The loss of 80 to 90 percent of tadpoles in a population from ranavirus may result in an 80 percent loss of adult recruitment (survival of individuals to sexual maturity and joining the reproductive population), which may negatively affect population viability (Daszak *et al.* 1999, pp. 742–745). The petition provides information indicating that the introduction of bullfrogs and spread of tiger salamanders throughout the western U.S. range of the northern leopard frog may increase the threat of ranavirus infection (Daszak *et al.* 1999, p. 745; Lannoo and Phillips 2005, pp. 636–639).

The petition also states that bacterial diseases are resulting in loss of populations of northern leopard frogs. Septicemia or “red leg” may have contributed to northern leopard frog declines in the Midwestern United States in the early 1970s (Koonz 1992, p. 20) and caused declines in Colorado between 1974 and 1982 (Carey 1993, pp. 356–358). However, “red leg” may be triggered by a variety of environmental factors, and it is unclear how it may be influencing northern leopard frog declines in the western United States (McAllister *et al.* 1999, p. 19).

One of the widespread and pervasive threats to the northern leopard frog in the western United States is predation by nonnative fishes and other introduced aquatic invasive species. The petition asserts that predation, particularly by nonnative fish and bullfrogs, has likely contributed to population declines and extirpation of northern leopard frogs across their western range (Hayes and Jennings 1986, pp. 490–509; Hecnar and M'Closkey 1997, pp. 125–127; Hammerson 1999, pp. 140–141; Maxell 2000, pp. 19–20; Hitchcock 2001, pp. 6,

63; Smith 2003, pp. 20–21; Smith and Keinath 2004, pp. 57–59). Information from Bradford (2005, pp. 922–923) indicates that ranid frogs in the western United States may be adversely affected more so than ranid frogs in the eastern United States due to their greater exposure to exotic, introduced species. Because northern leopard frogs in the West evolved in permanent or semi-permanent waters without large aquatic predators (Merrell 1968, p. 275), they may be more vulnerable to predation by introduced sport fish, bullfrogs, and crayfish (Bradford 2005, p. 923).

Information in our files (Rorabaugh 2005, p. 575) supports the conclusion that predation by nonnative species may be severely impacting northern leopard frogs in the western United States. Nonnative fishes and other invasive species such as crayfish and bullfrogs that prey upon, compete with, or otherwise impact native aquatic species are now implicated as the single most important deterrent to conservation and recovery of the native fish in the West (Minckley 1991, pp. 124–177; Marsh and Pacey 2005, pp. 59–63; Mueller 2005, pp. 10–19) as well as many amphibians and aquatic reptiles (Rosen and Schwalbe 2002, pp. 220–240). Nonnative, predacious fish, crayfish, and bullfrogs are currently impacting watersheds and riparian habitat across the west and likely are responsible for some declines of northern leopard frogs (Rorabaugh 2005, p. 575).

The data presented in the petition, as well as information in our files, relating to threats to the western U.S. population of the northern leopard frog indicate both disease, in particular, Bd fungal infections, and predation by introduced predators are credible and substantial. We find that the petition presents substantial information that the western U.S. population of the northern leopard frog may be threatened by the predation and disease.

D. Inadequacy of Existing Regulatory Mechanisms

The petitioners contend that existing regulatory mechanisms, at both State and Federal levels, have failed to cease or reverse the decline of the northern leopard frog. The petitioners identified the Service, U.S. Environmental Protection Agency (EPA), BLM, Forest Service, and State wildlife agencies as governmental entities who share a responsibility to protect the northern leopard frog either via jurisdictional directive or through land-management decisions.

The petition states that air pollution is reported to be a threat to the northern leopard frog (Rorabaugh 2005, pp. 575–

576) and that the emissions of certain gases into the air may lead to acid precipitation and the acidification of aquatic habitats (Jezouit 2004, pp. 423–445). The petitioners assert that this situation then leads to the direct destruction of vegetation needed for habitat (EPA 2000, pp. 48699–48701). Additionally, as stated earlier, the petitioners state that the NAAQS for sulfur dioxide, which contributes to the formation of acid precipitation (Baron *et al.* 2000, p. 352; Fenn *et al.* 2003, p. 404; Jezouit 2004, pp. 423–445; EPA 2005, pp. 59582–59600), are not adequate and do not protect aquatic ecosystems from the adverse impacts of acid precipitation and acidification impacts. The primary NAAQS for sulfur dioxide are limited to concentrations of no more than an arithmetic mean of 0.03 parts per million (ppm) on an annual basis or 0.14 ppm on a 24-hour basis (see 40 CFR § 50.4), and the secondary NAAQS for sulfur dioxide are limited to 0.5 ppm over a 3-hour averaging period (see 40 CFR 50.5). The petitioners, citing literature we were unable to locate, state that continued acid precipitation causes vegetation damage under the current sulfur dioxide NAAQS and thus, the emission of sulfur dioxide that may harm the northern leopard frog and its habitat. The petitioners make the same claim for nitrogen dioxide, which also contributes to the formation of acid rain (Baron *et al.* 2000, p. 352; Fenn *et al.* 2003, p. 404; Jezouit 2004, pp. 423–445; EPA 2005, pp. 59582–59600). As discussed under Factor A, increased acidity may destroy, modify, or curtail northern leopard frog habitat (Baron *et al.* 2000, p. 358; Fenn *et al.* 2003, pp. 404–418).

The primary and secondary NAAQS for nitrogen dioxide are limited to concentrations of no more than an annual arithmetic mean of 0.053 ppm (see 61 FR 52853, October 8, 1996). The petitioners contend that although scientific studies document continued acid precipitation and adverse habitat effects from nitrogen deposition under the current NAAQS (Baron *et al.* 2000, p. 365; Fenn *et al.* 2003, pp. 417–418), the standards have also remained unchanged since 1971. Therefore, the petitioners contend that the Clean Air Act is currently allowing for harmful emissions of nitrogen dioxide. Finally, the petition concludes that, because the Clean Air Act does not regulate the potential impacts of hydrofluorocarbons and perfluorocarbons to climate, the current laws may not protect the northern leopard frog from alleged adverse impacts of climate change. The potential effects of climate change on

the northern leopard frog in the western United States as described in the petition are discussed under Factor E.

The petitioners contend that implementation of the Clean Water Act (CWA) is allowing waters to be polluted and, as such, is not protecting northern leopard frog habitats. The petitioners state that although the CWA regulates point source pollution through the National Pollutant Discharge Elimination System (NPDES), and is required to protect aquatic life through the protection of designated uses (petition cites 40 CFR § 131.2), in most cases the northern leopard frog is not considered in the determination of whether NPDES permits meet this criterion. The petitioners cite examples from Wyoming where dozens of NPDES permits have recently been issued by the Wyoming Department of Environmental Quality authorizing the discharge of wastewater from coalbed methane development. The petition asserts that none of these permits considered or mitigated impacts to the northern leopard frog (Wyoming Department of Environmental Quality 2005a, 2005b, 2005c, 2006a). We reviewed the permit for Wyoming Department of Environmental Quality 2005a and although there are no specific mitigation measures for northern leopard frogs, the permit prohibits deposition of substances in quantities that could result in significant aesthetic degradation or degradation of habitat for aquatic life, plant life, or wildlife (Wyoming Department of Environmental Quality 2005a, p. 3). However, it is unclear how this would or would not provide for protection of northern leopard frogs and their habitat.

The petition further states that, despite the existence of the NPDES program, water quality throughout the western U.S. range of the northern leopard frog continues to decline. The petition supports this claim with data from the EPA (2002) that lists the percent of impaired rivers, streams, lakes, and ponds in each western State. The data do indicate that a vast majority of rivers, streams, lakes, ponds, and reservoirs may have some degree of impaired water quality. In addition, the petition asserts that the CWA does not adequately regulate nonpoint source pollution, and in most cases, it is nonpoint source pollution that is a threat to the northern leopard frog in the western United States (Leja 1998, p. 353; Smith 2003, pp. 23–27; Rorabaugh 2005, p. 576). Pesticides and herbicide runoff from agricultural activities, runoff from mining operations, runoff from roads, erosion and sedimentation from domestic livestock grazing, and

acid rain are nonpoint sources of water pollution that the petitioners indicate have resulted in adverse effects to the northern leopard frog and its habitat throughout the western United States (Rorabaugh 2005, p. 576). Bradford (2005, p. 919) indicates that chemical contamination (defined as pollution; acid precipitation; acid mine drainage; mine water pollution; sewage; and, heavy metals) was the third most implicated adverse factor for frog population declines in the United States.

The EPA is responsible for administering the CWA and Clean Air Act, as well as for managing the use of pesticides. As discussed above, the petitioners assert that neither the CWA nor the Clean Air Act currently provide adequate protection for the northern leopard frog in the western United States. In addition, the petitioners allege that, in relation to pesticide regulation, the EPA is not adequately protecting the northern leopard frog and its habitat. The petition contends that pesticide contamination of surface waters in the United States is extensive and concentrations of pesticides were frequently greater than water-quality benchmarks for aquatic life and fish-eating wildlife (Gilliom *et al.* 2006, p. 8). Of the streams analyzed as part of the National Water Quality Assessment Program, 57 percent contained one or more pesticides that exceeded at least one aquatic life protection benchmark (Gilliom *et al.* 2006, p. 8). The petitioners are particularly concerned with the use of atrazine, a commonly used herbicide in the United States. Even when used at very low concentrations of 0.1 parts per billion (ppb), atrazine may cause gonadal abnormalities such as retarded development and hermaphroditism in male northern leopard frogs (Hayes *et al.* 2002, p. 895). Atrazine contamination levels are reported to exceed aquatic life protection benchmarks in a majority of streams in the United States, especially streams dominated by urban runoff (Gilliom *et al.* 2006, pp. 6–11), and can be present in excess of 1 ppb in precipitation, even in areas where it is not used (Hayes *et al.* 2002, p. 895; Rorabaugh 2005, p. 576). The petitioners also state that other commonly used pesticides, such as glyphosate, malathion, and carbaryl may result in tadpole mortality, reduced foraging success, and decreased ability to avoid predators (Diana and Beasley 1998, p. 274; Smith and Keinath 2004, pp. 46–50; Relyea 2005, pp. 351–357).

The petitioners contend that the BLM has provided inadequate protection to the northern leopard frog, although the

species occurs on BLM lands in Colorado, Idaho, Montana, New Mexico, Nevada, and Wyoming, and may also inhabit BLM lands in North and South Dakota. The petitioners note that the frog has declined or is absent from BLM lands in Arizona (Clarkson and Rorabaugh 1989, p. 534), Idaho (Makela 1998, pp. 8–9), Montana (Maxell 2000, p. 144), Nevada (Hitchcock 2001, p. 9), Washington (McAllister *et al.* 1999, pp. 1–4), and Wyoming (Smith and Keinath 2004, p. 57), based upon historical ranges. BLM lists the northern leopard frog as a sensitive species in Colorado, Idaho, Wyoming, Montana, and North and South Dakota; the species is not listed as sensitive on BLM lands elsewhere. The petitioners cite National Environmental Policy Act documents and sensitive species lists from several of these States. The petitioners also cite relevant sections of BLM manual section 6840, which guides management of sensitive species. However, petitioners provided an example from Colorado that shows the BLM manual is not a mandatory requirement.

Of the 14 BLM field offices in Colorado, the northern leopard frog occurs on lands managed by 8 of the field offices. According to the petition, no documentation was provided that indicated the eight field offices had considered the northern leopard frog at all in relation to the BLM Special Status Species Policy at BLM Manual 6840. The petitioners assert that information provided by the BLM under the Freedom of Information Act indicated the following: (1) None of the eight field offices had evaluated the significance of lands administered by the BLM or action undertaken by BLM in conserving, maintaining, or restoring the northern leopard frog; (2) only two field offices generated documentation concerning the occurrence of the species, and none of the field offices had information pertaining to the distribution or abundance of the species; and (3) none of the field offices had developed or implemented any conservation programs for the species or its habitat.

The Service manages national wildlife refuges within the northern leopard frog's western U.S. range, and the petitioners believe that predation by introduced species and water contamination are both factors affecting the persistence of northern leopard frogs and quality of their habitat on refuges. As the petition asserted in Factors A and C, the introduction of nonnative fish and bullfrogs has caused declines in the northern leopard frog and threatens the species throughout its western range. The petition states that the

presence of predatory brown trout and bullfrogs on refuges where northern leopard frogs are or potentially exist (Ruby Lake, Las Vegas, Deer Flat, Alamosa, Monte Vista, and Tule Lake National Wildlife Refuges), is contributing to the decline of the species. Additionally, water contamination is stated as a threat on several additional national wildlife refuges (Dickerson and Ramirez 1993, pp. 1–2). Therefore, the petitioners contend that the Service is not ensuring the protection of the northern leopard frog in the western United States.

The Forest Service manages populations of northern leopard frogs in the western United States on National Forests and National Grasslands in several States, including Arizona, Colorado, Idaho, Minnesota, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming. As described under Factor A, populations of northern leopard frogs have declined across most of these States. The petition states that the Forest Service's proposed and current planning regulations are insufficient to protect the northern leopard frog. The northern leopard frog is designated a "sensitive species" in Forest Service Regions 1 (Northern Region—northern Idaho, Montana, North Dakota, northwest South Dakota), 2 (Rocky Mountain Region—Colorado, Nebraska, most of South Dakota, Wyoming), 3 (Southwest Region—Arizona, New Mexico), 5 (Pacific Southwest Region—California), and 6 (Pacific Northwest—Oregon and Washington), but not in Regions 4 (Intermountain Region—southern Idaho, Nevada, Utah, western Wyoming) and 9 (Eastern Region—includes all eastern States and Minnesota and Missouri). However, the petitioners allege that the sensitive species status does not provide any special protection and cite relevant portions of the Forest Service's Manual at 2672.1 that requires "an analysis of the significance of adverse effects on the population, its habitat, and on the viability of the species as a whole." The petitioners contend that in practice this manual direction allows for sensitive species to be impacted as long as there is an analysis of the impacts; however, no protection is guaranteed as part of the analysis.

The petition provides examples of nine Land and Resource Management Plans for national forests in the western United States (see Table 19, p. 116 of petition) that concluded that implementation of these Land and Resource Management Plans "may adversely impact individuals but are not likely to result in a loss of viability over the planning area nor cause a trend

toward listing of the northern leopard frog range wide." It is unclear without further analysis regarding these Land and Resource Management Plans what the effects of plan implementation have been or are likely to be on northern leopard frogs. The petition also contends that Region 2 of the Forest Service reduced protection for northern leopard frog habitats in 2005 by making the Watershed and Conservation Practices Handbook voluntary. The Watershed and Conservation Practices Handbook served to ensure implementation of "proven watershed conservation practices to protect soil, aquatic, and riparian systems" (Forest Service Handbook 2509.25) and was required for all actions on National Forest system lands. The revised Watershed and Conservation Practices Handbook now states that "alternative practices" may be used in place of the Watershed and Conservation Practices Handbook, although these alternative practices are not explained or defined (Forest Service 2005b, Forest Service Handbook 2509.25).

The petition also contends that State regulatory mechanisms are inadequate to protect the northern leopard frog and its habitat. To the extent that the States do provide some level of protection, the States may lack jurisdiction to address many of the threats facing the northern leopard frog, particularly the ability to protect the species' habitat on Federal lands. The northern leopard frog is designated a "species of special concern" or "sensitive species" (the terminology may differ by State) in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, and Oregon. This designation primarily ensures that a permit must be obtained to collect the species, but otherwise does not provide any legal protection to the species or its habitat. In 1999, the species was listed as "endangered" in Washington, but according to the petition, this designation does not provide substantive protection to the frog or its habitat on State, private, or Federal land. The designation does require that a recovery plan be developed within 5 years of listing; however, to date the plan has not been completed.

Per the petition, according to Washington law, recovery plans call for regulation, mitigation, acquisition, incentive, and compensation to meet recovery objectives, but these measures "must be sensitive to landowner needs and property rights" and there is no guaranteed funding for implementation of the recovery plan. The northern leopard frog has no protection in Iowa, Minnesota, Missouri, Nebraska, North

Dakota (although a license is required to take the species in North Dakota), South Dakota, Texas, Utah, or Wyoming. In Nebraska, the northern leopard frog is classified as a bait species. Our records indicate that several States identified habitats important to the northern leopard frog as needing special management in their Wildlife Action Plans and some States, such as Arizona, are actively promoting conservation of the species.

In summary, we acknowledge that the petitioners have presented substantial information that State and Federal regulatory mechanisms including implementation of the CWA and Clean Air Act and management of occupied lands by the States, BLM, Service, and Forest Service may be inadequate to conserve the northern leopard frog in the western United States. Therefore, we have determined that the petition presents substantial information that the western DPS of the northern leopard frog may be threatened due to the inadequacy of existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

The petitioners cite several other factors that are contributing to declines of the western U.S. population of the northern leopard frog. The factors discussed in the petition include malformations, pesticides, water pollution, air pollution, ultraviolet radiation, road impacts, and effects due to climate change. Many of these factors interact with habitat degradation and loss, disease, and predation to impact the species. In our analysis of the information presented in the petition, the Service reviewed the effects of air and water pollution, acid precipitation, and roads as they relate to habitat destruction, modification or curtailment under Factor A. Under Factor D, the Service reviewed information regarding the effects of pesticides, water and air pollution, and ultraviolet radiation on the northern leopard frog, as well as the information included below.

Within the last 15 to 20 years, malformed northern leopard frogs have been reported with increasing frequency in the western United States, particularly in Minnesota, North Dakota, and South Dakota (Helgen *et al.* 1998, p. 288; Johnson and Lunde 2005, p. 124). However, malformations are reported from Arizona, Colorado, Iowa, and Montana as well (Johnson and Lunde 2005, pp. 124–128; North American Center for Reporting Amphibian Malformations 2006). Noted malformations have included limb

deformities, multiple and missing limbs, jaw deformities, stunted growth, multiple eyes, missing eyes, and various other growths (Helgen *et al.* 1998, pp. 288–297; Hoppe 2005, p. 104). The petitioners contend that the malformations are believed to be caused by a variety of factors, including trematode parasites, ultraviolet-B radiation, and water contamination (Blaustein and Johnson 2003, pp. 87–91; Johnson and Lunde 2005, pp. 124–138; Helgen *et al.* 1998, pp. 294–297), but are generally linked to human-induced changes in aquatic habitats (Johnson and Lunde 2005, pp. 130–136; Meteyer *et al.* 2000, pp. 151–171). These malformations typically lead to mortality as behavior is compromised to the point of affecting individual fitness (Helgen *et al.* 1998, p. 289; Hoppe 2005, pp. 105–108). Rorabaugh (2005, pp. 576–577) provides a concise and thorough review of this literature and other information to indicate that northern leopard frogs are likely negatively impacted by malformations, pesticides, water pollution, air pollution, and ultraviolet radiation throughout their range, and that these factors are likely affecting the persistence of the species.

The petition states that even at low levels, pesticides can lead to local declines or extinction of northern leopard frog populations, particularly in areas that are in close proximity to heavy or frequent pesticide use as tadpole and larval stages are sensitive to low-level pesticide contamination (Berrill *et al.* 1997, p. 244). The effects to northern leopard frogs from pesticides, including herbicides, piscicides (chemical substances poisonous to fish), and insecticides vary, but information in the petition indicates that the species is negatively affected both acutely and via sublethal symptoms by several pesticides and chemicals (rotenone, Roundup, atrazine, malathion, copper sulfate, and fenthion) commonly used in the western United States (Patla 2005, p. 275; Relyea 2005, p. 353; Hayes *et al.* 2002, pp. 895–896; Fordham 1999, p. 125; Beasley *et al.* 2005, p. 86; Stebbins and Cohen 1995, pp. 215–216; Rorabaugh 2005, p. 576). The petition contends that pesticide contamination of surface waters in the United States is extensive and concentrations of pesticides were frequently greater than water-quality benchmarks for aquatic life and fish-eating wildlife (Gilliom *et al.* 2006, p. 8). Of the streams analyzed as part of the National Water Quality Assessment Program, 57 percent contained one or more pesticides that exceeded at least

one aquatic life protection benchmark (Gilliom *et al.* 2006, p. 8).

The petitioners also assert that ultraviolet radiation (UV) may also be negatively impacting the northern leopard frog in the western United States through increased larval mortality and deformities, and slowed growth and development (Blaustein *et al.* 2003, p. 126). Studies of amphibians and UV radiation have focused on UV-B, which has been found to be the most damaging radiation at the earth's surface (Blaustein *et al.* 2003, p. 124). In the absence of shade, ambient UV-B radiation has been found to be lethal to northern leopard frog tadpoles (Blaustein *et al.* 2003, pp. 124–128). In addition, synergistic effects resulting from UV-B radiation in combination with low pH, pollutants, and pathogens may adversely affect the hatching success and development of northern leopard frogs (Kiesecker and Blaustein 1995, pp. 9900–9904; Long *et al.* 1995, p. 1303; Blaustein *et al.* 2003, pp. 124–128).

The petitioners contend that the northern leopard frog in the western United States meets all of the criteria for a species at risk due to human-induced climate change. Citing information in the Service's Determination of Threatened Status for the California Tiger Salamander (69 FR 47212; August 4, 2004), the petitioners assert that climate change has resulted in increased temperatures in the western United States, declining snowpack and snow water equivalents in western mountains, and earlier snow melt. These changes are expected to lead to large hydrological changes (69 FR 47212; Patla and Keineth 2005).

The petitioners claim that the northern leopard frog is at the upper limit of its physiological tolerance to temperature and dryness throughout the arid and semi-arid habitats in the western United States (Hammerson 1999, pp. 146–147; Hitchcock 2001, pp. 18–19; Rorabaugh 2005, p. 577). In addition, the petitioners note that the northern leopard frog frequently depends upon small, ephemeral wetlands for breeding habitats (Merrell 1968, p. 275) and due to habitat fragmentation, the presence of nonnative aquatic species, and other factors, the leopard frog is bounded by dispersal barriers throughout its western range (Rorabaugh 2005, p. 577). The petition provides a list of impacts in addition to habitat impacts that may occur from climate change, including earlier reproduction and more rapid development of larva, decreased mobility due to drier conditions, and shorter hibernation periods (Carey and

Alexander 2003, pp. 111–121; Patla and Keineth 2005, pp. 44–46). The petitioners contend that higher summer temperatures may result in increased evaporation rates with breeding habitats drying up prior to metamorphosis, and also due in part to earlier breeding times in response to warmer spring temperatures, with subsequent episodes of freezing temperatures that may result in high egg mortality (Smith 2003, p. 34). Finally, the petitioners assert that climate change may also cause frogs to experience increased physiological stress and decreased immune system function, possibly leading to disease outbreaks (Carey and Alexander 2003, pp. 111–121; Pounds *et al.* 2006, pp. 161–167).

On the basis of our review, we find the information on pesticides, water pollution, air pollution, ultraviolet radiation, road impacts, and effects due to changing environmental conditions possibly resulting from climate change presented in the petition provides substantial information to indicate that other natural or manmade factors (stochastic events) may be a threat to the species. The potential impacts of these factors may be exacerbating other threats to this population; however, additional analysis is needed to determine the effect of these impacts on the northern leopard frog. Based on the information submitted in the petition, we have determined that substantial information has been presented that the western U.S. population of the northern leopard frog may be threatened due to other natural or manmade factors (stochastic events) affecting its continued existence (Factor E). We will continue to evaluate the potential effects of these factors on the species and its habitat during our status review.

Finding

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

We have reviewed the petition and the literature cited in the petition, and evaluated that information to determine

whether the sources cited support the claims made in the petition. We also reviewed reliable information that was readily available in our files to evaluate the petition.

Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition presents “substantial scientific and commercial information,” which is interpreted in our regulations as “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). As described in our Threats Evaluation, above, the petition presents substantial information indicating that listing the western U.S. population of the northern leopard frog may be warranted based on Factors A, C, D, and E, summarized below. Based on our five-factor analysis (above), the petition does not present substantial information indicating that Factor B is a threat to this species.

We find that the petitioners have presented substantial information indicating that the northern leopard frogs in the western United States may be genetically discrete from northern leopard frogs in the eastern United States and that the western U.S. population may also be significant to the species as a whole as the loss of this potentially discrete population segment may result in a significant gap in the range of the species. We also find that the petition presents substantial scientific or commercial information that listing the DPS of the northern leopard frog in the western United States as threatened or endangered may be warranted as the result of current and

future threats under Factor A due to habitat destruction and modification, Factor C due to disease and predation, Factor D because it is not currently protected by existing regulatory mechanisms, and Factor E due to malformations, pesticides, and ultraviolet radiation. Therefore, we are initiating a status review to determine if listing the species under the Act is warranted. We will issue a 12-month finding as to whether the petitioned action is warranted, not warranted, or warranted but precluded.

The petition asserts that the northern leopard frog is a possible DPS, and requested that if we find that listing the western U.S. population of northern leopard frogs as a DPS is not warranted, that we review whether listing the entire species is warranted because of threats in a significant portion of its range. Because we find that the petition presents substantial information that listing the western DPS may be warranted, we have not evaluated the extent to which the northern leopard frog may be endangered or threatened throughout a significant portion of its range. Such an analysis would occur during the 12-month status review if we determine that listing the western DPS is not warranted.

We encourage interested parties to continue gathering data that will assist with the conservation and monitoring of the northern leopard frog throughout the western United States. You may submit information regarding the northern leopard frog by one of the methods listed in the **ADDRESSES** section, at any time.

The “substantial information” standard for a 90-day finding is not the

same as the Act’s “best scientific and commercial data” standard that applies to a 12-month finding to determine whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination of whether a petitioned action is warranted is not made until we have completed a thorough status review of the species as part of the 12-month finding on a petition, which is conducted following a positive 90-day finding. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a positive 90-day finding does not mean that the 12-month finding also will be positive.

References Cited

A complete list of all references cited herein is available upon request from the Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author

The primary author of this notice is the staff of the U.S. Fish and Wildlife Service, Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 24, 2009.

Marvin E. Moriarty,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E9-15539 Filed 6-30-09; 8:45 am]

BILLING CODE 4310-55-P

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

Rural Business-Cooperative Service

Announcement of Value-Added Producer Grant Application Deadlines

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of withdrawal of Solicitation of Applications (NOSA) for Value-Added Producer Grant Program (VAPG).

SUMMARY: Rural Development is withdrawing the May 6, 2009, **Federal Register** notice (74 FR 20900), announcing the availability of approximately \$18 million in competitive grants for fiscal year 2009 to help independent agricultural producers enter into value-added activities.

DATES: July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Andrew A. Jermolowicz, USDA Rural Development, Mail STOP 3250, Room 4016–South, 1400 Independence Avenue, SW., Washington, DC 20250–3250, *Telephone:* (202) 720–8460, *e-mail:* cpgrants@wdc.usda.gov.

SUPPLEMENTARY INFORMATION: The May 6, 2009, **Federal Register** notice was published in error. The notice will be reissued with clarification of contradictory language, additional guidance on new program components, and extended application deadlines.

Dated: June 25, 2009.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E9–15533 Filed 6–30–09; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Notice of Limited Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) for the Broadband Initiatives Program

AGENCY: Rural Utilities Service, U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: The Rural Utilities Service (RUS) is hereby granting a limited waiver of the Buy American requirements of ARRA Section 1605 with respect to certain broadband equipment that will be used in projects funded under the Broadband Initiatives Program (BIP). This action permits the use of certain essential components of a modern broadband infrastructure as specified in section III of this notice.

DATES: *Effective Date:* July 1, 2009.

ADDRESSES: Send any correspondence regarding this order to David J. Villano, Assistant Administrator, Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1590, Room 5151, Washington, DC 20250–1590.

FOR FURTHER INFORMATION CONTACT: Ken Kuchno, Director, Broadband Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1599, Room 2868–S, Washington, DC 20250–1590.

SUPPLEMENTARY INFORMATION: In accordance with section 1605(c) of the Recovery Act and section 176.80 of the rules of the Office of Management and Budget (OMB), RUS hereby provides notice that it is granting a limited waiver of section 1605 of the Recovery Act with respect to certain broadband equipment that will be used in projects funded under BIP. (*See American Recovery and Reinvestment Act of 2009, Public Law 111–5, § 1605, 123 Stat. 115, 303 (Feb. 17, 2009) (“Recovery Act”); Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards, Interim Final Guidance, 74 FR 18449 (Apr. 23, 2009) (codifying the Buy American provisions at 2 CFR part 176, subpart B) (“Buy American Guidance”).*) The basis for this waiver is

a public interest determination pursuant to section 1605(b)(1) of the Recovery Act.

I. Background

The Recovery Act appropriates \$2.5 billion in budget authority to RUS to establish BIP, through which RUS will provide grants, loans, and loan/grant combinations for broadband initiatives throughout the United States, including projects in unserved and underserved rural areas. Section 1605(a) of the Recovery Act, the “Buy American” provision, states that none of the funds appropriated by the Act, including the funds that have been dedicated BIP, “may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.”¹

Sections 1605(b) and (c) of the Recovery Act authorize the head of a Federal department or agency to waive the Buy American provision by finding that: (1) Applying the provision would be inconsistent with the public interest; (2) the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of the manufactured goods produced in the United States will increase the cost of the project by more than 25 percent. If the head of the Federal department or agency determines that it is necessary to waive application of the Buy American provision, then the head of the department or agency shall publish a detailed justification in the **Federal Register**. Finally, the Recovery Act states that the Buy American provision must be applied in a manner consistent with the United States’ obligations under international agreements.

II. Public Interest Finding

The Agency has determined that, as applied to certain broadband equipment used in a BIP project, the application of the Buy American provision would be inconsistent with the public interest.

¹ Because the Buy American provision applies only to public works and public buildings, completely private projects need not obtain a waiver to utilize iron, steel, and manufactured goods produced outside of the United States. Note, however, that public-private partnerships are considered public for purposes of the Buy American limitation.

(See Recovery Act, § 1605(b)(1), 123 Stat. at 303.) A modern broadband network is generally composed of the following components: Broadband switching, routing, transport, access, customer premises equipment, end-user devices, and billing/operations systems. The Buy American provision would prohibit RUS from awarding a BIP grant, loan or loan/grant combination to a public applicant unless that applicant could certify that each element of each broadband network component containing iron, steel, and manufactured goods are produced in the United States. As explained more fully below, it would be difficult, if not impossible, for a BIP applicant to have certain knowledge of the manufacturing origins of each component of a broadband network, and the requirement to do so would be so overwhelmingly burdensome as to deter participation in the program. Requiring a BIP applicant to request a waiver on a case-by-case basis would also be such an administrative burden on the applicant as to discourage participation in the program and would increase RUS' time and costs for processing BIP applications for broadband infrastructure projects. Thus, implementing BIP without a limited programmatic waiver encompassing broadband network components would jeopardize the success of the program and undermine President Obama's broadband initiative.

First, RUS recognizes that much of the finished products used to manage and operate broadband infrastructure and offer broadband service are manufactured outside of the United States. The manufacturing supply chain varies by product and changes constantly due to the influence of global supply and demand. The result is a very competitive and complex production landscape with components and end products being manufactured and assembled in a large number of countries. While, arguably, the Secretary could have relied on the "non-availability" exception for granting a waiver, the burden placed on the Department in sourcing and evaluating the availability of each component of broadband equipment would be significant, and the task of sourcing and evaluating would be difficult to complete given the speed with which Congress has told RUS to allocate funds under the Recovery Act. In addition, requiring public entities to document the origin of broadband equipment and their components in order to determine whether they fit within the scope of the Buy American provision would severely complicate those applicants' ability to

apply for funds and would place an undue burden on State and local governments. Taken as a whole, these burdens would cause delays and would likely thwart the goal of Congress to "establish and implement the [BIP] grant, loan and loan/grant combination program as expeditiously as practicable," and the Recovery Act's requirement that RUS obligate all funds under BIP by September 30, 2010. (See Recovery Act, § 6001(d)(1)–(2), 123 Stat. at 513.)

Second, a limited waiver will help facilitate the construction of modern broadband networks—an essential component of the Recovery Act. Applicants to BIP must have the flexibility to incorporate the most technically-advanced components into their infrastructure, and a limited waiver gives them the ability to incorporate the latest technologies. Third, consistent with the Recovery Act, a limited waiver will help stimulate job growth for construction workers, technicians, equipment designers, engineers, and others who will operate the broadband infrastructure. Fourth, while OMB has clarified which countries would be exempt from the Buy American provision, some of the key countries that produce broadband equipment would not be exempt. Finally, the broadband industry is very dynamic and global, and equipment can change over the course of a build out. Subjecting public applicants for BIP funds to the Buy American provision ultimately would slow broadband deployment and undermine President Obama's broadband initiatives.

III. Waiver

Based on the public interest finding discussed above and pursuant to section 1605(c), RUS is granting a limited waiver of the Recovery Act's Buy American requirements with respect to BIP funds used for the following essential components of a modern broadband infrastructure:

- **Broadband Switching Equipment**—Equipment necessary to establish a broadband communications path between two points.
- **Broadband Routing Equipment**—Equipment that routes data packets throughout a broadband network.
- **Broadband Transport Equipment**—Equipment for providing interconnection within the broadband provider's network.
- **Broadband Access Equipment**—Equipment facilitating the last mile connection to a broadband subscriber.
- **Broadband Customer Premises Equipment and End-User Devices**—End-

user equipment that connects to a broadband network.

- **Billing/Operations Systems**—Equipment that is used to manage and operate a broadband network or offer a broadband service.

Note that this list does not include fiber optic cables, cell towers, and other facilities that are produced in the United States in sufficient quantities to be reasonably available as end products. To the extent that an applicant wishes to use equipment that is not covered by the proposed waiver, it may seek a waiver on a case-by-case basis as part of its application for BIP funds, stating the statutory exemption upon which it is relying and its rationale for receiving a waiver.

This supplementary information constitutes the "detailed written justification" required by Section 1605(c) of the Recovery Act and Section 176.80 of OMB's rules for waivers of the Buy American provisions.

Authority: Public Law 111–5 § 1605, 123 Stat. 115; 2 CFR 176.10 *et seq.*

Dated: June 26, 2009.

Thomas J. Vilsack,

Secretary, United States Department of Agriculture.

[FR Doc. E9–15511 Filed 6–30–09; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting tentatively on July 15, 2009 at the Sierra Nevada College, 999 Tahoe Boulevard, Incline Village, NV 89451. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held July 15, 2009, beginning at 9 a.m. and ending at 12 p.m.

ADDRESSES: The meeting will be held at Sierra Nevada College, 999 Tahoe Boulevard, Incline Village, NV 89451.

For Further Information or to Request an Accommodation (one week prior to meeting date) Contact: Linda Lind, Lake Tahoe Basin Management Unit, Forest

Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543-2787.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda include: (1) Lake Tahoe Southern Nevada Public Land Act (SNPLMA) Round 10 update; (2) Status and preparation for SNPLMA Round 11; and, (3) Public Comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: June 23, 2009.

Cheva Heck,

Acting Forest Supervisor.

[FR Doc. E9-15393 Filed 6-30-09; 8:45 am]

BILLING CODE 3410-11-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meetings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meetings.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) plans to hold its regular committee and Board meetings in Arlington, VA, Wednesday through Friday, July 15-17, 2009, at the times and location noted below.

DATES: The schedule of events is as follows:

Wednesday, July 15, 2009

9:30-Noon Planning and Evaluation Committee (Closed to Public).

1:30-3 p.m. Technical Programs Committee.

3-4 Budget Committee.

Thursday, July 16, 2009

9:30-5 p.m. Ad Hoc Committee Meetings (Closed to Public).

Friday, July 17, 2009

9:30-Noon Committee of the Whole: Board structure discussion.

1:30-3 p.m. Board Meeting.

ADDRESSES: All meetings will be held at the Westin Arlington Gateway Hotel, 801 North Glebe Road, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact David Capozzi, Executive Director, (202) 272-0010 (voice) and (202) 272-0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting scheduled on Friday, July 17, the Access Board will consider the following agenda items:

- Election of Vice Chairs for Standing Committees
- Approval of the draft March 2009 Board Meeting Minutes
- Technical Programs Committee Report
- Budget Committee Report
- Planning and Evaluation Committee Report
- Accessible Design in Education
- Acoustics
- Airport Terminal Access
- Emergency Transportable Housing
- Information and Communications Technologies
- Outdoor Developed Areas
- Passenger Vessels
- Public Rights-of-Way
- Transportation Vehicles
- Election Assistance Commission Report

• Executive Director's Report
• ADA and ABA Guidelines; Federal Agency Updates

All meetings are accessible to persons with disabilities. An assistive listening system, computer assisted real-time transcription (CART), and sign language interpreters will be available at the Board meeting. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

David M. Capozzi,

Executive Director.

[FR Doc. E9-15502 Filed 6-30-09; 8:45 am]

BILLING CODE 8150-01-P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Friday, July 10, 2009; 9:30 a.m. EDT.

PLACE: 624 9th St., NW., Room 540, Washington, DC 20425.

Meeting Agenda

- This meeting is open to the public.
- I. Approval of Agenda
 - II. Approval of Minutes of June 12, 2009 Meeting
 - III. Announcements

IV. Program Planning:

- National Civil Rights Conference;
- Update on Status of 2009 Statutory Report;
- Discussion of 2010 Statutory Report Topic;
- Approval of Briefing Report on Title IX.

V. State Advisory Committee Issues:

- Virginia SAC.

VI. Adjourn

FOR FURTHER INFORMATION CONTACT:

Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376-8591. TDD: (202) 376-8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the meeting at 202-376-8105. TDD: (202) 376-8116.

Dated: June 29, 2009.

David Blackwood,

General Counsel.

[FR Doc. E9-15709 Filed 6-29-09; 4:15 pm]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Paperwork Submissions Under the Coastal Zone Management Act Federal Consistency Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 31, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to David Kaiser, 603-862-2719 or at david.kaiser@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

A number of paperwork submissions are required by the Coastal Zone Management Act (CZMA) federal consistency provision, 16 U.S.C. 1456, and by NOAA to provide a reasonable, efficient and predictable means of complying with CZMA requirements. The requirements are detailed in 15 CFR part 930. The information will be used by coastal states with federally-approved Coastal Zone Management Programs to determine if Federal agency activities, Federal license or permit activities, and Federal assistance activities that affect a state's coastal zone are consistent with the states' programs. Information will also be used by NOAA and the Secretary of Commerce for appeals to the Secretary by non-federal applicants regarding State CZMA objections to federal license or permit activities.

II. Method of Collection

Information that must be signed or certified is mailed; other information may be e-mailed.

III. Data

OMB Control Number: 0648-0411.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, Local, or Tribal government; individuals or households; business or other for-profit organizations; and Federal government.

Estimated Number of Respondents: 2,334.

Estimated Time per Response: 8 hours for a State objection or concurrence letter for a consistency certification or determination; 4 hours for a State request for review of unlisted activities; 1 hour for public notice requirements for a project; 4 hours for a request for remedial action of a supplemental review; 1 hour for coordination of a listing notice; 2 hours for a request for Secretarial mediation; and 200 hours for an appeal. These are average estimates and burden can significantly vary based on the individual situation.

Estimated Total Annual Burden Hours: 35,799.

Estimated Total Annual Cost to Public: \$9,022.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 25, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-15504 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-08-P

DEPARTMENT OF COMMERCE**Bureau of the Census**

[Docket Number 090429803-9711-01]

Procedures for Participating in the 2010 Decennial Census New Construction Program

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Bureau of the Census (Census Bureau) requests public comment on the New Construction Program, which allows tribal and local governments to submit lists of addresses for newly constructed housing units to the Census Bureau. The purpose of this program is to ensure that the Census Bureau's address list is as complete and accurate as possible for the conduct of the Decennial Census on April 1, 2010.

DATES: To ensure consideration during the decision-making process, the Census Bureau must receive all comments in writing on or before July 31, 2009.

ADDRESSES: Comments concerning the proposed 2010 Census New Construction Program should be submitted to Arnold A. Jackson, Associate Director for Decennial Census, U.S. Census Bureau, through one of the following methods:

FAX: Comments may be faxed to (301) 763-8867.

E-mail: Comments may be e-mailed to Arnold.A.Jackson@census.gov.

FOR FURTHER INFORMATION CONTACT: Correspondence about the Census Bureau's 2010 Census New Construction Program in general should be directed to Timothy F. Trainor, Chief, Geography

Division, U.S. Census Bureau, through one of the following methods:

FAX: Correspondence may be faxed to (301) 763-4710.

E-mail: Correspondence may be e-mailed to

Timothy.F.Trainor@census.gov.

SUPPLEMENTARY INFORMATION: As part of its objective to produce a complete and accurate population count, the Census Bureau proposes to implement the 2010 Decennial Census New Construction Program to capture the addresses of newly constructed housing units. Specifically, the purpose is to utilize tribal and local knowledge of recent and in-progress construction to identify, and add to the census address list, the addresses for housing units not yet existent at the time of the Address Canvassing Operation, a nationwide check during the Spring/Summer of 2009 in which the Census Bureau verified the census address list that will be used to deliver questionnaires for the Decennial Census. During address canvassing, census workers systematically canvassed all census blocks looking for living quarters and add, delete, and correct entries on the census address list to ensure its completeness and accuracy. The Address Canvassing Operation is expected to conclude on July 17, 2009. In order to account for any housing units whose construction began after the start of the Address Canvassing Operation, the Census Bureau is proposing to implement the New Construction Program.

The 2010 Decennial Census New Construction Program is conducted by the Census Bureau under the authority of Title 13, United States Code (U.S.C.), Section 141(a), and is separate and distinct from the Local Update of Census Addresses Program (*see* 73 FR 12369) in that its only purpose is to identify addresses for housing units newly constructed starting in March 2009 that are expected to be closed to the elements (final roof, windows and doors) by Census Day, April 1, 2010. The New Construction Program was conducted for the first time as part of Census 2000.

Proposed 2010 Decennial Census New Construction Program

The 2010 Census New Construction Program is offered to Federally Recognized American Indian tribal governments with reservations and/or trustlands, and local governments (counties, incorporated places, and functioning minor civil divisions) with jurisdictions where the Census Bureau will deliver the census questionnaires

by mail. For other areas, Census Bureau enumerators will hand deliver the census questionnaires to all housing units in each block, including any newly constructed units not already on the census address list. Tribal and local governments that wish to participate in the Program will be invited to submit a list of addresses of newly constructed housing units for inclusion in the Census Address List. The address list submitted by New Construction Program participants must only include addresses for housing units for which construction began during or after March 2009 that are expected to be closed to the elements (final roof, windows and doors) by Census Day, April 1, 2010. No street or boundary updates will be accepted by the New Construction Program.

The New Construction Program will not accept additions of Group Quarters addresses. Group Quarters addresses are defined as places where people live or stay in a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents. The Census Bureau has programs that are specifically designed to capture new Group Quarters addresses, including but not limited to, Group Quarters Validation, Group Quarters Advanced Visit, Group Quarters Enumeration, and the Count Review program.

The Census Bureau plans to mail a New Construction Program invitation letter and registration forms in July 2009 to the tribal and local governments that are eligible to participate in the New Construction Program. Interested tribal and local governments will be asked to return the registration form in order to participate in the program. As part of the registration form, the participant must identify the format of the maps or spatial data that they wish to receive from the Census Bureau. The maps or spatial data are for use as a reference for assigning census tract and block codes (geocoding) for each submitted address. The maps are offered in Portable Document Format (PDF) and spatial data are available from TIGER® in shapefile format that requires a Geographic Information System (GIS) software application for viewing.

For governments choosing maps in PDF, the Census Bureau will provide Adobe® Reader® software to view the PDF maps. For those participants who choose to use shapefiles, the Census Bureau will provide the MAF/TIGER Partnership Software (MTPS) to enter addresses and output them in the prescribed format. The MTPS is an easy-to-use desktop tool that makes participation easier for governments

without a GIS system. The MTPS also provides map viewing capability when used with the shapefiles provided by the Census Bureau. However, participants may use their own software to create a computer readable list of addresses in the prescribed format.

The Census Bureau will send out New Construction materials to registered participants during November 2009 through January 2010. The PDF package will contain the following:

- (1) The New Construction Quick Start Document;
- (2) The New Construction User Guide;
- (3) The New Construction Address List Template;
- (4) Zip Software;
- (5) CD Readme.txt File;
- (6) PDF Software (Adobe® Reader®);
- (7) New Construction Map PDFs.

The MTPS/Shapefile package will contain the following:

- (1) The New Construction Quick Start Document;
- (2) The New Construction User Guide;
- (3) The New Construction MTPS User Guide;
- (4) The New Construction Address List Template;
- (5) Zip Software;
- (6) CD Readme.txt File;
- (7) MTPS Software;
- (8) Shapefiles.

Participants must submit their New Construction address lists to the Census Bureau within forty-five (45) calendar days after receipt of the New Construction materials. "Receipt" as used herein is defined as the delivery date reported to the Census Bureau by the delivery service that delivers the New Construction materials to the eligible government. The New Construction addresses must be returned in the Census Bureau's predefined format and each address must be "geocoded," or assigned to the census tract and block in which it is located as shown on the New Construction census maps (PDF or shapefiles).

Files that are submitted in the proper format are compared against the Census Bureau's Master Address File to check for any addresses already on the list. The Census Bureau, using the participant supplied addresses, will visit and attempt to enumerate each newly constructed housing unit that has been identified as missing from our list. The census enumeration process will determine the final housing unit status and population for each new unit.

Classification

Executive Order 12866

This notice has been determined to not be significant under Executive Order 12866.

Paperwork Reduction Act

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 current, valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 35, the Census Bureau requested, and OMB granted, clearance for the information collection requirements for this program on April 15, 2009 (OMB Control Number 0607-0795, expires on April 30, 2012).

Thomas L. Mesenbourg,

Acting Director, U.S. Census Bureau.

[FR Doc. E9-15524 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

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.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with section 351.213 (2008) of the Department of Commerce ("the Department") regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to release the CBP data under

Administrative Protective Order ("APO") to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 20 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon

thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of the **Federal Register** initiation notice. *Opportunity to Request a Review:* Not later than the last day of July 2009,¹ interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings	
THE PEOPLE'S REPUBLIC OF CHINA:	
Carbon Steel Butt-Weld Pipe Fittings A-570-814	7/1/08-6/30/09
Circular Welded Carbon Quality Steel Pipe A-570-910	1/15/08-6/30/09
Persulfates A-570-847	7/1/08-6/30/09
Saccharin A-570-878	7/1/08-6/30/09
FINLAND: Carboxymethylcellulose A-405-803	7/1/08-6/30/09
GERMANY: Stainless Steel Sheet and Strip in Coils A-428-825	7/1/08-6/30/09
INDIA: Polyethylene Terephthalate (PET) Film A-533-824	7/1/08-6/30/09
IRAN: In-Shell Pistachios A-507-502	7/1/08-6/30/09
ITALY:	
Certain Pasta A-475-818	7/1/08-6/30/09
Stainless Steel Sheet and Strip in Coils A-475-824	7/1/08-6/30/09
JAPAN:	
Clad Steel Plate A-588-838	7/1/08-6/30/09
Stainless Steel Sheet and Strip in Coils A-588-845	7/1/08-6/30/09
Polyvinyl Alcohol A-588-861	7/1/08-6/30/09
MEXICO:	
Stainless Steel Sheet and Strip in Coils A-201-822	7/1/08-6/30/09
Carboxymethylcellulose A-201-834	7/1/08-6/30/09
NETHERLANDS: Carboxymethylcellulose A-421-811	7/1/08-6/30/09
RUSSIA:	
Solid Urea A-821-801	7/1/08-6/30/09
Ferrovandium and Nitrided Vanadium A-821-807	7/1/08-6/30/09
SOUTH KOREA: Stainless Steel Sheet and Strip in Coils A-580-834	7/1/08-6/30/09
SWEDEN: Carboxymethylcellulose A-401-808	7/1/08-6/30/09
TAIWAN:	
Polyethylene Terephthalate (PET) Film A-583-837	7/1/08-6/30/09
Stainless Steel Sheet and Strip in Coils A-583-831	7/1/08-6/30/09
THAILAND: Carbon Steel Butt-Weld Pipe Fittings A-549-807	7/1/08-6/30/09
TURKEY: Certain Pasta A-489-805	7/1/08-6/30/09
UKRAINE: Solid Urea A-823-801	7/1/08-6/30/09
Countervailing Duty Proceedings	
INDIA: Polyethylene Terephthalate (PET) Film C-533-825	1/1/08-12/31/08
ITALY: Certain Pasta C-475-819	1/1/08-12/31/08
THE PEOPLE'S REPUBLIC OF CHINA: Circular Welded Carbon-Quality Steel Pipe C-570-911	11/13/07-3/11/08
	7/21/08-12/31/08
TURKEY: Certain Pasta C-489-806	1/1/08-12/31/08
Suspension Agreements	
RUSSIA: Certain Hot-Rolled Carbon Steel Flat Products A-821-809	7/1/08-6/30/09

¹ Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when the Department is closed.

In accordance with section 351.213(b) of the Department's regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.² If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to section 351.303(f)(3)(ii) of the Department's regulations.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68

FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at <http://ia.ita.doc.gov>.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the Department's regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of July 2009. If the Department does not receive, by the last day of July 2009, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 23, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-15600 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews

SUPPLEMENTARY INFORMATION:

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for August 2009

The following Sunset Review is scheduled for initiation in August 2009 and will appear in that month's Notice of Initiation of Five-year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Barbed Wire and Barbless Wire Strand from Argentina (A-357-405) (3rd Review)	Matthew Renkey (202) 482-2312
Countervailing Duty Proceedings	
No Sunset Review of countervailing duty orders are scheduled for initiation in August 2009.	
Suspended Investigations	
No Sunset Review of suspended investigations are scheduled for initiation in August 2009.	

The Department's procedures for the conduct of Sunset Reviews are set forth

in 19 CFR 351.218. Guidance on methodological or analytical issues

relevant to the Department's conduct of Sunset Reviews is set forth in the

² If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other

exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part

of the single entity of which the named firms are a part.

Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 18, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-15553 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-884]

Certain Color Television Receivers From the People's Republic of China: Final Results of Sunset Review and Revocation of Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On May 1, 2009, the Department of Commerce ("Department") initiated the sunset review of the antidumping duty order on certain color television receivers from the People's Republic of China ("PRC"). Because the domestic interested parties did not participate in this sunset review, the Department is revoking this antidumping duty order.

EFFECTIVE DATE: June 3, 2009

FOR FURTHER INFORMATION CONTACT: Zhulieta Willbrand, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-3147.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2004, the Department issued an antidumping duty order on imports of certain color television receivers from the PRC, which was amended on June 25, 2004. See *Antidumping Duty Order: Certain Color Television Receivers From the People's Republic of China*, 69 FR 31347 (June 3, 2004); see also, *Notice of Amended Antidumping Duty Order: Certain Color Television Receivers from the People's Republic of China*, 69 FR 35583 (June 25, 2004). On May 1, 2009, the Department initiated a sunset review on this order. See *Initiation of Five-year ("Sunset") Review*, 74 FR 20286, 20287 (May 1, 2009).

We did not receive from domestic interested parties a notice of intent to participate in the sunset review. See 19 CFR 351.218(d)(1)(i). As a result, the Department determined that no domestic interested party intends to participate in the sunset review, and on May 22, 2009, we notified the International Trade Commission, in writing, that we intended to issue a final determination revoking this antidumping duty order. See 19 CFR 351.218(d)(1)(iii)(A) - (B).

Scope of the Order

For purposes of the order, the term "certain color television receivers" includes complete and incomplete direct view or projection type cathode ray tube color television receivers, with a video display diagonal exceeding 52 centimeters, whether or not combined with video recording or reproducing apparatus, which are capable of receiving a broadcast television signal and producing a video image. Specifically excluded from the order are computer monitors or other video display devices that are not capable of receiving a broadcast television signal. The color television receivers subject to the order are currently classifiable under subheadings 8528.12.2800, 8528.12.3250, 8528.12.3290, 8528.12.4000, 8528.12.5600, 8528.12.3600, 8528.12.4400, 8528.12.4800, and 8528.12.5200 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the above HTSUS subheadings are provided for convenience and customs purposes,

the written description of the merchandise under the order is dispositive.

Determination to Revoke

Pursuant to section 751(c)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall, within 90 days after the initiation of the review, issue a final determination revoking the order. Because the domestic interested parties did not file a notice of intent to participate in this sunset review, the Department finds that no domestic interested party is participating in this sunset review. See 19 C.F.R. § 351.218(d)(1)(iii)(B)(1). Therefore, consistent with 19 CFR 351.222(i), we are revoking this antidumping duty order. The effective date of revocation is June 3, 2009, the fifth anniversary of the date the Department published the antidumping duty order.

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), the Department will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after June 3, 2009. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This notice of final results of five-year (sunset) review and revocation is published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: June 25, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-15598 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**National Telecommunications and Information Administration****Broadband Technology Opportunities Program**

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Buy American Exception under the American Recovery and Reinvestment Act of 2009.

SUMMARY: The National Telecommunications and Information Administration (NTIA) hereby provides notice that on June 19, 2009, the Secretary of Commerce granted a limited waiver of section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Pub. L. No. 111-5, 123 Stat. 115, 303 (2009) with respect to certain broadband equipment that will be used in projects funded under the Broadband Technology Opportunities Program (BTOP).

DATES: July 1, 2009.

ADDRESSES: Broadband Technology Opportunities Program, Office of Telecommunications and Information Applications, National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4812, 1401 Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Broadband Technology Opportunities Program, telephone: (202) 482-5032.

SUPPLEMENTARY INFORMATION: In accordance with section 1605(c) of the Recovery Act and section 176.80 of Title 2 of the Code of Federal Regulations, NTIA hereby provides notice that on June 19, 2009, the Secretary of Commerce granted a limited waiver of section 1605 of the Recovery Act (Buy American provision) with respect to certain broadband equipment that will be used in projects funded under BTOP.¹ The basis for this waiver is a public interest determination pursuant to section 1605(b)(1) of the Recovery Act.

I. BACKGROUND

The Recovery Act appropriates \$4.7 billion to NTIA to establish BTOP, through which NTIA will provide grants for broadband initiatives throughout the United States, including projects in unserved and underserved areas. Section 1605(a) of the Recovery Act, the Buy American provision, states that

none of the funds appropriated by the Act, including the funds that have been dedicated to grants under BTOP, “may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.”²

Subsections 1605(b) and (c) of the Recovery Act authorize the head of a Federal department or agency to waive the Buy American provision by finding that: (1) applying the provision would be inconsistent with the public interest; (2) the relevant goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of the goods produced in the United States will increase the cost of the project by more than 25 percent. If the head of the Federal department or agency waives the Buy American provision, then the head of the department or agency is required to publish a detailed justification in the **Federal Register**. Finally, section 1605(d) of the Recovery Act states that the Buy American provision must be applied in a manner consistent with the United States’ obligations under international agreements.

II. PUBLIC INTEREST FINDING

The Secretary of Commerce has determined that, as applied to certain broadband equipment used in a BTOP project, application of the Buy American provision would be inconsistent with the public interest.³ A modern broadband network is generally composed of the following components: broadband switching, routing, transport, access, customer premises equipment, end-user devices, and billing/operations systems. The Buy American provision would prohibit NTIA from awarding a BTOP grant to a public applicant unless that applicant could certify that each element of each broadband network component containing iron, steel, and manufactured goods are produced in the United States. As explained more fully below, it would be difficult, if not impossible, for a BTOP applicant to have certain knowledge of the manufacturing origins of each component of a broadband network and the requirement to do so would be so

overwhelmingly burdensome as to deter participation in the program. Requiring a BTOP applicant to request a waiver on a case-by-case basis also would be such an administrative burden on the applicant as to discourage participation in the program and would increase the agency’s time and costs for processing BTOP applications for broadband infrastructure projects. Thus, implementing the BTOP without a limited programmatic waiver encompassing broadband network components would jeopardize the success of the program and undermine the broadband initiative.

First, much of the finished products used to manage and operate broadband infrastructure and offer broadband service are manufactured outside of the United States. The manufacturing supply chain varies by product and changes constantly due to the influence of global supply and demand. The result is a very competitive and complex production landscape with components and end products being manufactured and assembled in a large number of countries. While, arguably, the Secretary of Commerce could have relied on the “non-availability” exception for granting a waiver, the burden placed on the Department of Commerce in sourcing and evaluating the availability of each component of broadband equipment would be significant, and the task of sourcing and evaluating would be difficult to complete given the speed with which Congress has told NTIA to allocate the BTOP funds. In addition, requiring public entities to document the origin of broadband equipment and their components in order to determine whether they fit within the scope of the Buy American provision would severely complicate those applicants’ ability to apply for funds and would place an undue burden on State and local governments. Taken as a whole, these burdens would cause delays and would likely thwart the goal of Congress to “establish and implement the [BTOP] grant program as expeditiously as practicable,” and the Recovery Act’s requirement that NTIA to obligate all funds under BTOP by September 30, 2010.⁴

Second, a limited waiver will help facilitate the construction of modern broadband networks — an essential component of the Recovery Act. Applicants to BTOP must have the flexibility to incorporate the most technically-advanced components into their infrastructure, and a limited waiver gives them the ability to

¹ Recovery Act § 1605, 123 Stat. at 303; 2 C.F.R. § 176.80.

² Because the Buy American limitation applies only to public works and public buildings, completely private projects need not obtain a waiver to utilize iron, steel, and manufactured goods produced outside of the United States. Note, however, that public-private partnerships are considered public for purposes of the Buy American limitation.

³ See Recovery Act § 1605(b)(1), 123 Stat. at 303.

⁴ See Recovery Act § 6001(d)(1)-(2), 123 Stat. at 513.

incorporate the latest technologies. Third, consistent with the Recovery Act, a limited waiver will help stimulate job growth for construction workers, technicians, equipment designers, engineers, and others who will operate the broadband infrastructure. Fourth, while the Office of Management and Budget has clarified which countries would be exempt from the Buy American provision, some of the key countries that produce broadband equipment would not be exempt. Finally, the broadband industry is very dynamic and global, and equipment can change over the course of a buildout. Subjecting public applicants for BTOP funds to the Buy American provision ultimately would slow broadband deployment and undermine the broadband initiatives.

III. WAIVER

On June 19, 2009, based on the public interest finding discussed above and pursuant to section 1605(c), the Secretary granted a limited waiver of the Recovery Act's Buy American requirements with respect to BTOP funds used for the following essential components of a modern broadband infrastructure:

- *Broadband Switching Equipment* — Equipment necessary to establish a broadband communications path between two points.
- *Broadband Routing Equipment* — Equipment that routes data packets throughout a broadband network.
- *Broadband Transport Equipment* — Equipment for providing interconnection within the broadband provider's network.
- *Broadband Access Equipment* — Equipment facilitating the last mile connection to a broadband subscriber.
- *Broadband Customer Premises Equipment and End-User Devices* — End-user equipment that connects to a broadband network.
- *Billing/Operations Systems* — Equipment that is used to manage and operate a broadband network or offer a broadband service.

Note that this list does not include fiber optic cables, coaxial cables, cell towers, and other facilities that are produced in the United States in sufficient quantities to be reasonably available as end products. To the extent that an applicant wishes to use equipment that is not covered by this waiver, it may seek a waiver on a case-by-case basis as part of its application for BTOP funds, stating the statutory exemption upon which it is relying and its rationale for receiving a waiver. Further information on how to apply for

a waiver will be available in BTOP Application Guidelines.

Dated: June 26, 2009.

Anna M. Gomez,

Acting Assistant Secretary for Communications and Information.

[FR Doc. E9-15514 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-60-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP04

Notice of Intent to Prepare an Environmental Impact Statement for Sea Turtle Conservation and Recovery in Relation to the Atlantic Ocean and Gulf of Mexico Trawl Fisheries and to Conduct Public Scoping Meetings

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

ACTION: Notice; Extension of public comment period.

SUMMARY: In response to requests from members of the public, NMFS extends the public comment period on the notice of intent to prepare an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) by assessing potential impacts resulting from the proposed implementation of new sea turtle regulations in the Atlantic and Gulf of Mexico trawl fisheries. The comment period is now extended for an additional 30 days until August 10, 2009.

DATES: Comments will be accepted until August 10, 2009. Comments received or postmarked after that date will be considered to the extent practicable.

ADDRESSES: Written comments on the scope of the EIS should be sent to Alexis.Gutierrez@noaa.gov, 1315 East West Highway, Silver Spring, MD 20910; 301-713-2322 or fax 301-713-4060. Additional information, including the Scoping document, can be found at: <http://www.nmfs.noaa.gov/pr/species/turtles/strategy.htm>.

FOR FURTHER INFORMATION CONTACT: Dennis Klemm (ph. 727-824-5312, fax 727-824-5309, email Dennis.Klemm@noaa.gov), Pasquale Scida (ph. 978-281-9208, fax 978-281-9394, email Pasquale.Scida@noaa.gov), Alexis Gutierrez (ph. 301-713-2322, fax 301-713-4060, email Alexis.Gutierrez@noaa.gov).

SUPPLEMENTARY INFORMATION:

Background

On May 8, 2009, NMFS published a Notice of Intent to Prepare an Environmental Impact Statement (EIS) for Sea Turtle Conservation and Recovery in Relation to the Atlantic Ocean and Gulf of Mexico Trawl Fisheries and to Conduct Public Scoping Meetings (74 FR 21627). The Notice announced that NMFS is developing rulemaking to address sea turtle bycatch in state and Federal trawl fisheries under the Endangered Species Act. The notice also announced that NMFS would conduct five public scoping meetings. NMFS has now conducted those scoping meetings and has been asked to extend the comment period for an additional 30 days.

NMFS is asking for public comment on the alternatives outlined in the scoping document. NMFS will evaluate a range of alternatives in the Draft EIS for implementing phase one of the Strategy to reduce sea turtle bycatch and mortality in trawl fisheries along the Atlantic Coast. In addition to evaluating the status quo, NMFS will evaluate a range of alternatives including which Atlantic trawl fisheries will be regulated, the temporal and spatial aspects of the regulation and the potential changes to the operation of Atlantic trawl fisheries. These alternatives could include time and area closures, requiring the use of TEDs in the summer flounder, whelk, croaker and weakfish flynet and calico scallop trawls for the entire Atlantic Coast, as well as combination of spatial and temporal options. In terms of spatial options, sea turtles in U.S. waters range as far North as Georges Bank and the Gulf of Maine, but may be less likely to interact with a fishery towards the northern extent of this range. NMFS will likely evaluate several alternatives related to the northern/northeastern extent of any required gear modification or other regulation. Similarly, several alternatives will likely be evaluated for the temporal extent of when a regulation would be in effect, as sea turtles migrate north along the Atlantic coast as waters warm each year, and are only present in more northern areas during the warmer months. The public scoping document, the powerpoint presentation and the Notice of Intent can be found at <http://www.nmfs.noaa.gov/pr/species/turtles/strategy.htm>. The public comment period is now extended 30 days and will close on August 10, 2009.

Dated: June 24, 2009.

James H. Lecky,

*Office Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. E9-15552 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP85

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Notice; issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued one-year Letters of Authorization (LOA) to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: These authorizations are effective from July 1, 2009 through June 30, 2010.

ADDRESSES: The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3235 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, Office of Protected Resources, NMFS, 301-713-2289.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the NMFS to allow, upon request, the incidental, but not intentional, taking of small numbers 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 by NMFS and regulations are issued. Under the

MMPA, the term "taking" means to harass, hunt, capture, or kill or to attempt to harass, hunt capture, or kill marine mammals.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). 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 (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking incidental to EROS were published on June 19, 2008 (73 FR 34889), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that **Federal Register** notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso's dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), short-finned pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*).

Pursuant to these regulations, NMFS has issued an LOA to St. Mary Land & Exploration Company and Apache Corporation. Issuance of these LOAs is based on a finding made in the preamble to the final rule that the total taking by these activities (with monitoring, mitigation, and reporting measures) will result in no more than a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS also finds that the applicants will meet the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: June 25, 2009.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. E9-15551 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year ("Sunset") Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers the same orders.

EFFECTIVE DATE: July 1, 2009.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 - *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A-570-007	731-TA-149	PRC	Barium Chloride (3rd Review)	Matthew Renkey (202) 482-2312
A-570-002	731-TA-130	PRC	Chloropicrin (3rd Review)	Matthew Renkey (202) 482-2312
A-570-888	731-TA-1047	PRC	Floor-Standing, Metal Top Ironing Tables And Parts Thereof	Dana Mermelstein (202) 482-1391
A-570-886	731-TA-1043	PRC	Polyethylene Retail Carrier Bags	Dana Mermelstein (202) 482-1391
A-557-813	731-TA-1044	Malaysia	Polyethylene Retail Carrier Bags	Dana Mermelstein (202) 482-1391
A-549-821	731-TA-1045	Thailand	Polyethylene Retail Carrier Bags	Dana Mermelstein (202) 482-1391
A-427-001	731-TA-44	France	Sorbitol (3rd Review)	Dana Mermelstein (202) 482-1391
A-475-820	731-TA-770	Italy	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482-0182
A-588-843	731-TA-771	Japan	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482-0182
A-580-829	731-TA-772	South Korea	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482-0182
A-469-807	731-TA-773	Spain	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482-0182
A-401-806	731-TA-774	Sweden	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482-0182
A-583-828	731-TA-775	Taiwan	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482-0182
A-570-887	731-TA-1046	PRC	Tetrahydrofurfuryl Alcohol	Matthew Renkey (202) 482-2312

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's sunset Internet Web site at the following address: "<http://ia.ita.doc.gov/sunset/>." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103 (d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306.

Information Required from Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the

date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements.¹ Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section

¹ In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

751(c) of the Act and 19 CFR 351.218 (c).

June 23, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-15570 Filed 6-30-04; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XQ09

Marine Mammals; File No. 774-1847

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

ACTION: Notice; receipt of application for an amendment

SUMMARY: Notice is hereby given that NMFS Southwest Fisheries Science Center, Antarctic Marine Living Resources Program (Michael Gobel, Ph D, Principal Investigator), 3333 N Torrey Pines Ct, La Jolla, CA 92037, has requested an amendment to scientific research Permit No. 774-1847-03.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 31, 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>, and then selecting File No. 774-1847-04 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources,

NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521.

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. 774-1847-04.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713-2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 774-1847-03, is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 774-1847-03, issued on August 14, 2008 (73 FR 49648) authorizes the applicant to take up to 710 Antarctic fur seals (*Arctophalus gazella*), 20 leopard seals (*Hydrurga leptonyx*), and 180 southern elephant seals (*Mirounga leonina*) annually in Antarctica. The animals are captured, measured, weighed, tagged, blood sampled, vibrissae collected, and have time-depth recorders, VHF transmitters, and platform terminal transmitters attached. A subset of seals are given an enema, have a tooth extracted, milk sampled, blubber/muscle sampled, tissue sampled, and are part of a doubly-labeled water study on energetics.

The Permit Holder requests authorization to begin a Weddell seal (*Leptonychotes weddellii*) study to understand movements, site fidelity, and demographics of this species in Antarctica. Up to 60 Weddell seals would be taken annually. Seals would be instrumented and sampled (blood, vibrissae, muscle/blubber, milk, and tissue). The applicant is requesting up to 4 research-related mortalities of Weddell seals (2 adults and 2 juveniles)

annually. The applicant also requests authorization to deploy microprocessors attached to flipper tags on fur seals, increase the number of tissue samples collected from fur seals, increase the number of leopard seals and fur seals tagged (for the purposes of retagging), and use an unmanned aircraft system for aerial photography. These activities are proposed for the duration of the permit, which expires on September 30, 2011.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 25, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-15550 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability for the revised Guana Tolomato Matanzas, Florida National Estuarine Research Reserve Management Plan.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the revised Guana Tolomato Matanzas, Florida National Estuarine Research Reserve Management Plan.

The Guana Tolomato Matanzas National Estuarine Research Reserve is located in St. Johns and Flagler counties and is geographically separated into a

northern and southern component separated by the City of St. Augustine. The Reserve was designated in 1999. Pursuant to 15 CFR 921.33(c), a state must revise their management plan every five years. The submission of this plan brings the Reserve into compliance and sets a course for successful implementation of the goals and objectives of the Reserve.

The revised management plan outlines the administrative structure; the education, stewardship, and research goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations. The Reserve management goals and objectives can be categorized within the following five management challenges: Public use, habitat and species management, watershed land use, cultural preservation and interpretation, and global processes. These issues can be directly or indirectly linked to anthropogenic land use of increasing population densities accompanied by increasing development, recreation and economic pressures.

The Guana Tolomato Matanzas Environmental Education Center is a notable addition since the last management plan and serves as the administrative, education, research, and stewardship facility for the northern component of the Reserve. The facility will provide an opportunity for further outreach to the community and serve as a center of excellence for regional science, education and stewardship forums.

The boundary of the Reserve is being expanded to include 8,865 acres of publicly owned land in the southern component of the reserve. Approximately 4,166 acres of the Faver-Dykes State Park is being added to the 1,333 acres of the Faver-Dykes State Park incorporated at designation. The additional park lands will provide new resources and allow for an extension of the existing partnership. Additionally, 4,699 acres of the Matanzas State Forest is being added to the Reserve boundary to protect the last remaining undisturbed salt marsh within the Reserve and is part of a 16,000 acre continuous conservation corridor. These additions will bring the total Reserve acreage to 73,352 acres protected for long-term research, education and stewardship. Pursuant to 15 CFR 921.33, NOAA published a notice in the **Federal Register** providing an opportunity for public comment on July 7, 2008. No comments were received.

FOR FURTHER INFORMATION CONTACT: Erica Seiden at (301) 713-3155 or

NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, Station 10542, Silver Spring, MD 20910. To access the Guana Tolomato Matanzas, FL Management Plan visit <http://www.dep.state.fl.us/coastal/sites/gtm/management/plan.htm>.

Dated: June 11, 2009.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E9-15538 Filed 6-30-09; 8:45 am]

BILLING CODE 3510-08-P

COUNCIL ON ENVIRONMENTAL QUALITY

Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies; Initiation of Revision and Request for Suggested Changes

AGENCY: Council on Environmental Quality.

ACTION: Notice and Request for Suggestions.

SUMMARY: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110-114) directs the Secretary of the Army to revise the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies," dated March 10, 1983, consistent with a number of considerations enumerated in the statute. The Administration is considering developing uniform planning standards for the development of water resources that would apply government-wide, including agencies other than the traditional water resources development agencies covered under the current Principles and Guidelines: the Army Corps of Engineers, Bureau of Reclamation (Interior), Natural Resources Conservation Service (USDA), and Tennessee Valley Authority. Therefore, the Council on Environmental Quality (CEQ) will facilitate an interagency drafting of revised Principles and Guidelines for planning water resources projects that could be applied government-wide.

Upon completion, the revision would apply to Federal water resources implementation studies including project reevaluations and modifications except those commenced prior to the issuance of the revised guidance. It is intended that the revision will be conducted in two phases, with the first phase addressing revisions to the 1983

Principles and Standards (Chapter I of the existing Guidelines) and the second phase addressing revisions to the Procedures (Chapters II through IV of the 1983 Guidelines). The purpose of this notice is to provide an opportunity for interested individuals and organizations to submit suggestions for revising the Principles and Guidelines. Using that input, CEQ intends for the initial draft of the revision to be prepared and released for public comments and review by the National Academy of Sciences.

DATES: CEQ will hold a Webinar to hear public comment on recommendations to revise the Principles and Guidelines on July 13, 2009, from 1 to 3:30 p.m. EDT. Written suggestions are being accepted now and will be accepted through the end of the business day, July 17, 2009.

ADDRESSES: Suggestions should be submitted in writing to the Council on Environmental Quality, *Attn:* Terry Breyman, 722 Jackson Place, NW., Washington, DC 20503 or via e-mail to P&G@ceq.eop.gov or FAX 202-456-6546.

FOR FURTHER INFORMATION CONTACT: Terry Breyman, Associate Director for Natural Resources, at 202-456-9721.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality is initiating the first phase of this revision to include the 1983 Principles and Standards (Chapter I of the Guidelines). Revision of Chapters II through IV of the Guidelines will be initiated at a later date. The Secretary requests that each suggested revision be accompanied by a statement of the intent of the revision. Written suggestions (by mail, e-mail, or fax) are preferred and should be submitted to Terry Breyman, 722 Jackson Place, NW., Washington, DC 20503 or via e-mail to P&G@ceq.eop.gov or FAX 202-456-6546. In addition, CEQ will hold a Webinar to hear suggestions for proposed revisions on July 13, 2009, from 1 to 3:30 p.m. EDT. To participate in the Webinar, you must register at <https://www2.gotomeeting.com/register/411954714>. After registering, you will receive a confirmation e-mail containing information about joining the Webinar. System requirements for PC-based attendees: Windows2000, XP Home, XP Pro, 2003 Server, Vista. Mcintosh-based attendees require Mac OS X 10.4 (Tiger) or newer. Those needing to make suggestions and ask questions may attend this meeting in person at the U.S. EPA offices at Two Potomac Yard (North Building), Room n-1600 (6th floor), 2733 South Crystal Drive, Arlington, VA 22202. To facilitate oral suggestions, the time available to speak will be divided by random drawing.

Interested individuals and organizations may request copies of the following documents by mail or e-mail or access them at the Internet addresses indicated: "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies dated March 10, 1983 (http://www.usace.army.mil/CECW/PlanningCOP/Documents/library/Principles_Guidelines.pdf) Water Resources Development Act of 2007 (Pub. L. 110-114) at http://www.usace.army.mil/CECW/PlanningCOP/Documents/library/hr1495_pl110-114.pdf.

Dated: June 26, 2009.

Nancy H. Sutley,

Chairman, Council on Environmental Quality.

[FR Doc. E9-15517 Filed 6-30-09; 8:45 am]

BILLING CODE 3125-W9-P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Business Board (DBB)

AGENCY: Department of Defense.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150, the Department of Defense announces the following Federal advisory committee meeting of the Defense Business Board (DBB) will take place.

DATES: The public meeting of the Board will be held on Thursday, July 16, 2009, beginning at 10:45 a.m. and ending at 11:45 a.m.

ADDRESSES: Pentagon Conference Center, Washington, DC (escort required, see below).

FOR FURTHER INFORMATION CONTACT: For meeting information please contact Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 3C288, Washington, DC 20301-1155, Debora.duffy@osd.mil, (703) 697-2168.

The Board's Designated Federal Officer is Ms. Phyllis Ferguson, Defense Business Board, 1155 Defense Pentagon, Room 3C288, Washington, DC 20301-1155, Phyllis.ferguson@osd.mil, (703) 695-7563.

SUPPLEMENTARY INFORMATION:

(a) Background

At this meeting, the Board will deliberate findings and recommendations from two Task

Groups: (1) "An Outreach Plan to Improve Communications with the Defense Industrial Base," and (2) "A Review of the National Security Personnel System." The mission of the DBB is to advise the Secretary of Defense on effective strategies for implementation of best business practices of interest to the Department of Defense.

(b) Availability of Materials for the Meeting

A copy of the draft agenda for the July 16, 2009, meeting may be obtained from the Board's Web site at <http://www.defenselink.mil/dbb> under "Meeting Materials."

(c) Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. All members of the public who wish to attend the meeting must contact Ms. Duffy at the number listed in this FR notice no later than noon on Thursday, July 9th to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort are to arrive at the Pentagon Metro Entrance by 9:45 a.m. and complete security screening by 10:15 a.m. Security screening requires two forms of identification: (1) A government-issued photo I.D., and 2) any type of secondary I.D. which verifies the individual's name (*i.e.* debit card, credit card, work badge, social security card).

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Duffy at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

(d) Procedures for Providing Public Comments

Pursuant to 41 CFR 102-3.105(j) and 102-3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public session.

Written comments are accepted until the date of the meeting, however, written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments may be submitted via e-mail to defensebusinessboard2@osd.mil and

preferably in one of the following formats (Adobe Acrobat or Microsoft Word format). Please note: Since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all public presentations may be treated as public documents and may be made available for public inspection, up to and including being posted on the Board's Web site.

Dated: June 26, 2009.

Patricia L. Toppings,

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

[FR Doc. E9-15594 Filed 7-1-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Commercial Item Handbook

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Request for public input.

SUMMARY: DoD is in the process of updating its Commercial Item Handbook. The purpose of the Handbook is to help acquisition personnel develop sound business strategies for procuring commercial items. DoD is seeking industry input on the contents of the draft Handbook.

DATES: Submit written comments to the address shown below on or before July 31, 2009.

ADDRESSES: Submit comments to: Office of the Director, Defense Procurement and Acquisition Policy, *Attn:* OUSD(AT&L)DPAP(CPIC), 3060 Defense Pentagon, Washington, DC 20301-3060. Comments also may be submitted by e-mail to CI_Handbook@osd.mil.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Heartley, by telephone at 703-695-7062, or by e-mail at Linda.Heartley@osd.mil.

SUPPLEMENTARY INFORMATION: DoD formed a working group, consisting of personnel from the military departments and defense agencies, to update the Commercial Item Handbook issued by the Office of the Secretary of Defense (Acquisition, Technology, and Logistics) in November 2001. A draft of the updated Commercial Item Handbook can be found at http://www.acq.osd.mil/dpap/cpic/cp/docs/draftcihandbook_06172009.doc. DoD is

seeking industry input on the contents of the draft Handbook.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E9-15486 Filed 6-30-09; 8:45 am]

BILLING CODE 5001-08-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 31, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395-5806 or send e-mail to oir_submission@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The 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 26, 2009.

Sheila Carey,

Acting Director, Information Collection Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: 2010 National Assessment of Education Progress (NAEP) Wave 2.

Frequency: Once.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 3,605.

Burden Hours: 1,201.

Abstract: This submittal contains burden information and the actual background worksheets/questionnaires for the following components of the 2010 NAEP assessments:

- SD (Student with Disabilities) Worksheets/Questionnaires—Grades 4, 8, 12.
- ELL (English Language Learner) Worksheets/Questionnaires—Grades 4, 8, 12.

NAEP encourages the inclusion of all students who can meaningfully participate in the assessment, including those with disabilities and English language learners. In order to obtain a complete picture of educational progress for all students, it is important to collect supplemental information on students in the sample who have been identified as having a disability or are English language learners. SD and ELL worksheets/questionnaires are completed by school personnel who are most knowledgeable about students identified as SD or ELL.

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 4081. 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. E9-15557 Filed 6-30-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[CFDA No. 84.382B]

Asian American and Native American Pacific Islander-Serving Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of intent to fund down the fiscal year (FY) 2008 grant slate for the Asian American and Native American Pacific Islander-Serving Institutions (AANAPISI) Program.

SUMMARY: The Secretary intends to use the grant slate developed in FY 2008 for the AANAPISI Program authorized under Title III, Part F, Section 371 of the Higher Education Act of 1965, as amended (HEA), to make new grant awards in FY 2009 under Section 320 of the HEA. The Secretary takes this action because a number of high-quality applications remain on last year's grant slate. We expect to use an estimated \$2,500,000 for new awards in FY 2009.

FOR FURTHER INFORMATION CONTACT: Darlene B. Collins, U.S. Department of Education, 1900 K Street, NW., room 6020, Washington, DC 20006-6450. Telephone: (202) 502-7576 or via Internet: darlene.collins@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 2008, we published a notice in the **Federal Register** (73 FR 26970) inviting applications for new awards under Title III, Part F, Section 371 of the HEA for the AANAPISI Program.

In response to this notice, we received a number of high-quality applications for grants under the AANAPISI Program and made 6 new grant awards. However, there were applications that were awarded high scores by peer reviewers that did not receive funding in FY 2008 due to the level of appropriations.

The Department's FY 2009 appropriation for Section 371 of the HEA is sufficient to allow the Department to make continuation awards to the 6 current grantees. Rather than using program funds for a new peer review process for new grants under the Asian American and Native American Pacific Islander-Serving Institutions Program authorized under Section 320, the Department has decided to select grantees in FY 2009 from the existing slate of applicants. This slate was developed during the FY 2008 competition using the selection criteria, application requirements, and definitions referenced in the May 12, 2008 **Federal Register** notice.

Note: To be eligible to receive a grant pursuant to this notice, all applicants being considered for funding based on the funding slate for the FY 2008 competition must meet all statutory and regulatory, basic and programmatic, eligibility criteria and other requirements for this program.

Program Authority: 20 U.S.C. 1057-1059d.

Electronic Access to This Document

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: www.ed.gov/news/fedregister.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: www.gpoaccess.gov/nara/index.html.

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzellan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions of the Assistant Secretary for Postsecondary Education.

Dated: June 26, 2009.

Daniel T. Madzellan,

Director, Forecasting and Policy Analysis.

[FR Doc. E9-15597 Filed 6-30-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**Office of Postsecondary Education;
Overview Information: Erma Byrd
Scholarship Program; Notice Inviting
Applications for New Awards for Fiscal
Year (FY) 2009**

*Catalog of Federal Domestic Assistance
(CFDA) Number:* 84.116E.

Dates:

Applications Available: July 1, 2009.

Deadline for Transmittal of

Applications: July 31, 2009.

Full Text of Announcement**I. Funding Opportunity Description**

Purpose of Program: The Erma Byrd Scholarship Program provides scholarships to individuals pursuing a course of study that will lead to a career in industrial health and safety occupations, including mine safety. This program is designed to increase the skilled workforce in these fields at both the fundamental skills level and the advanced skills level. The program has a service obligation component, which requires recipients of the scholarship to begin employment in a career position related to industrial health and safety no later than six months after completion of the degree program, and to continue to work in a career position related to industrial health and safety, including mine safety, for a period of one year.

The scholarships are available to students in the following eligible areas of study related to industrial health and safety: Mining and mineral engineering, industrial engineering, occupational safety and health technology/technician, quality control technology/technician, industrial safety technology/technician, hazardous materials information systems technology/technician, mining technology/technician, and occupational health and industrial hygiene.

Program Authority: The Erma Byrd Scholarship Program is established by Title III of the Omnibus Appropriations Act, 2009, Public Law 111-8.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds:

\$1,000,000.

Estimated Average Size of Awards:

\$2,500 (associate's degree student);

\$5,000 (bachelor's degree student);

\$10,000 (graduate student).

Estimated Number of Awards: 110.

The number of scholarships awarded

will be allocated between undergraduate students and graduate students in the same proportion as the number of fundable applications received from those groups of students, taking into account the size of the awards to be made to students in those groups.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information and Program Requirements

1. *Eligible Applicants:* Individuals who at the time of application: (1) Are enrolled in an associate's degree program, or are enrolled in a bachelor's degree program or a graduate program and are within two years of completing a degree at the bachelor's or graduate level; (2) are eligible to receive a Federal grant, loan, or work assistance pursuant to section 484 of the Higher Education Act of 1965, as amended (HEA); and (3) are pursuing an associate's, bachelor's or graduate degree in an eligible field of study under the Erma Byrd Scholarship Program, at an accredited institution of higher education in the United States. In addition, to receive an Erma Byrd Scholarship, an individual must be a citizen, national, or permanent resident of the United States.

2. *Program Requirements:*

(a) *Satisfactory academic progress.* Scholarship recipients must maintain satisfactory academic progress in accordance with 34 CFR 668.34 throughout the period of funding and must submit a Student Activities Report to the Secretary at the end of each year of funding with a certification from an authorized representative of the institution that the student is maintaining satisfactory academic progress. If an Erma Byrd Scholarship recipient does not maintain satisfactory academic progress throughout the period of funding or does not submit a Student Activities Report to the Secretary at the end of each year of funding, the recipient is not eligible for any additional funding and must repay the scholarship amount as a Direct Unsubsidized Student Loan with all the associated repayment conditions, including interest payments and fees as provided under title IV, part D of the HEA.

(b) *Service obligation.* The program has a service obligation component. Scholarship recipients must be employed in a career position related to industrial health and safety, including mine safety, for a period of one year following the completion of their degree program. Scholarship recipients must begin such employment no more than

six months after the completion of their degree program. Scholarship recipients must submit a verification of employment report to the Secretary no more than six months immediately after completion of his or her degree program, reporting on post-graduation activities, including changes in their permanent address, e-mail, phone number, and employment status. Additionally, scholarship recipients must submit a final employment report to the Secretary at the end of the one year service obligation period.

If an Erma Byrd Scholarship recipient does not fulfill the complete service obligation within eighteen months after completion of his or her degree program, the scholarship amount must be repaid as a Direct Unsubsidized Student Loan with all the associated repayment conditions, including interest payments and fees as provided under Title I, Part D of the HEA.

3. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

4. *Applicability of Rulemaking Requirements.* Under the Administrative Procedure Act (5 U.S.C. 553) and section 437 of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1), the Department generally offers interested parties the opportunity to comment on proposed eligibility and other program requirements. Title III of the Omnibus Appropriations Act, 2009, Public Law 111-8, provides, however, that the provisions of section 553 of the APA and section 437 of GEPA do not apply to this program.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Department. To obtain a copy via the Internet, use the following address for the Erma Byrd Scholarship Program Web site: <http://www.ed.gov/programs/ermabyrd/index.html>

To obtain a copy from the Department, write, fax, or call the following: Lauren Kennedy, Erma Byrd Scholarship Program, U.S. Department of Education, Teacher and Student Development Programs Service, 1990 K St., NW., Room 6121, Washington, DC 20006-8524. *Telephone:* (202) 502-7630; *Fax:* (202) 502-7852; or, by *e-mail:* ermabyrdprogram@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain a copy of the application package

in an accessible format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:*

Applications Available: July 1, 2009.

Deadline for Transmittal of Applications: July 31, 2009.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* All applications must be submitted electronically by e-mailing the application in the form of a Microsoft Word (.DOC) document to ermabyrdprogram@ed.gov.

If you are unable to submit your application by e-mail and wish to submit your application by mail, you must submit a request for permission to submit it by mail 10 days prior to the application deadline date to Lauren Kennedy at ermabyrdprogram@ed.gov. In your request, you must include the reason why you are unable to submit the application electronically. Please note that electronic applications will not be accepted if the application is presented in a format other than Microsoft Word.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under *For Further Information Contact* in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

V. Application Review Information

1. *Selection Criteria:*

All applicants are required to complete and submit the Erma Byrd Scholarship Program Applicant Information Form, which will be used to determine the applicant's eligibility for the scholarship.

2. *Review and Selection Process:*

(a) *Undergraduate applicants:* In selecting undergraduate students to receive a scholarship, the Secretary will award scholarships to students in the order that the applications are received.

Priority will be given first to students who have demonstrated financial need and are eligible to receive a Federal Pell Grant.

Qualified undergraduate applicants who wish to have their Federal Pell Grant eligibility considered as part of their application must demonstrate financial need by submitting a Free Application for Federal Student Aid (FAFSA), which may be obtained at www.fafsa.ed.gov or from their institution's financial aid office, and by submitting their Social Security Number using the Pell Grant Eligibility Certification Sheet contained in the Erma Byrd Scholarship Program Application Information Form. Applicants who have already submitted their FAFSA for the 2009–2010 award year do not need to resubmit the FAFSA.

The Secretary will award scholarships to applicants who are eligible for Federal Pell Grants and who are enrolled in eligible fields of study in the order that the applications are received.

If additional funds are available after awards are made to undergraduate students who are eligible for a Federal Pell Grant, scholarships will be awarded to qualified undergraduate students who are not eligible for a Federal Pell Grant in the order that their applications are received.

(b) *Graduate applicants.* In selecting graduate students to receive a scholarship, the Secretary will award scholarships to qualified students in the order that the applications are received.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify you and your U.S. Representative and U.S. Senators and send a Grant Award Notification (GAN) directly to the institution you will be attending. The institution will disburse funds to scholarship recipients in accordance with its regular payment schedule.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* Scholarship recipients must submit a Student Activities Report to the Secretary at the end of each year of funding, which includes a certification from an authorized representative of the institution that the student is maintaining satisfactory academic progress. In addition, scholarship recipients must submit a verification of employment report to the Secretary no more than six months immediately after completion of his or her degree program, reporting on post-graduation activities, including changes in their permanent address, e-mail, phone number, and employment status. Finally, scholarship recipients must submit a final employment report to the Secretary at the end of the service obligation period.

At the request of the student, an institution of higher education in which a scholarship recipient is enrolled must provide the student with a written certification from an authorized representative of the institution that the student is maintaining satisfactory academic progress.

4. *Performance Measures:* The effectiveness of the Erma Byrd Scholarship Program will be measured by graduation completion rates, time-to-degree completion rates, and the percentage of students fulfilling the one-year service obligation within eighteen months of graduation. The Department will use the verification of employment and final employment reports to assess the program's success in assisting scholarship recipients in completing their course of study and receiving their degree, and entering the specified fields.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT:

Lauren Kennedy, Erma Byrd Scholarship Program, U.S. Department of Education, Teacher and Student Development Programs Service, 1990 K St., NW., Room 6121, Washington, DC 20006–8524. *Telephone:* (202) 502–7630 or *e-mail:* ermabyrdprogram@ed.gov.

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g. braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in

text or Adobe Portable Document Format (PDF), on the Internet at the following site: www.ed.gov/news/fedregister.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: www.gpoaccess.gov/nara/index.html.

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzellan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions of the Assistant Secretary for Postsecondary Education.

Dated: June 26, 2009.

Daniel T. Madzellan,

Director, Forecasting and Policy Analysis.

[FR Doc. E9-15567 Filed 6-30-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Finding of No Significant Impact: Disposition of DOE Excess Depleted Uranium, Natural Uranium, and Low-Enriched Uranium

AGENCY: Department of Energy.

ACTION: Finding of No Significant Impact.

SUMMARY: The U.S. Department of Energy (DOE, the Department) has completed an *Environmental Assessment (EA) for the Disposition of DOE Excess Depleted Uranium (DU), Natural Uranium (NU), and Low-Enriched Uranium (LEU)* (DOE/EA-1607). Based on the analysis in the EA, the Department has determined that the proposed action, DOE dispositioning its excess uranium inventory using one or a combination of two methods—(1) enrichment to either NU or LEU product and subsequent storage or sale of the resultant NU or LEU product (Enrichment Alternative), and (2) direct sale to appropriately licensed entities (Direct Sale Alternative)—does not constitute a major Federal action significantly affecting the quality of the human environment within the context of the National Environmental Policy Act of 1969 (NEPA). Therefore, the preparation of an Environmental Impact Statement (EIS) is not required and the

Department is issuing this Finding of No Significant Impact (FONSI).

ADDRESSES: Single copies of the EA and FONSI may be obtained from:

Mr. Ronald Hagen, NEPA Document Manager, NE-6, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-0113, *Phone:* (202) 586-1381, *Facsimile:* (202) 287-3701, *Electronic mail:* Ronald.Hagen@nuclear.energy.gov.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Hagen, *Phone:* (202) 586-1381, *Electronic mail:*

Ronald.Hagen@nuclear.energy.gov.

For information on DOE's NEPA process:

Ms. Carol Borgstrom, Director, NEPA Policy and Compliance, GC-20, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0113, *Phone:* (202) 586-4600, *Facsimile:* (202) 586-7031.

SUPPLEMENTARY INFORMATION:

Background: DOE owns and manages an inventory of excess DU, NU, and LEU. This inventory is currently stored in large cylinders as depleted uranium hexafluoride (DUF₆), natural uranium hexafluoride (NUF₆), and low-enriched uranium hexafluoride (LEUF₆) at the DOE Paducah site in western Kentucky (DOE Paducah) and the DOE Portsmouth site near Piketon in south-central Ohio (DOE Portsmouth). This inventory exceeds DOE's current and projected energy and defense program needs. The Secretary of Energy policy statement on the management of DOE excess uranium inventory issued on March 11, 2008, commits DOE to managing all of its excess uranium inventory in a manner that (1) is consistent with all applicable legal requirements; (2) maintains sufficient uranium inventory at all times to meet the current and reasonably foreseeable needs of Departmental missions; (3) undertakes transactions involving non-U.S. Government entities in a transparent and competitive manner, unless the Secretary determines in writing that overriding Departmental mission needs dictate otherwise; and (4) is consistent with and supportive of the maintenance of a strong domestic nuclear industry.

In conformance with the requirements of the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1508) and the DOE NEPA Implementing Procedures (10 CFR Part 1021), the Department prepared a draft EA which was issued for public review on December 24, 2008.

Comments were received from potentially affected states, the Nuclear Regulatory Commission, and uranium industry organizations. The draft EA was revised in response to the comments, as appropriate.

Alternatives and Environmental Impacts: The potential environmental impacts associated with the proposed disposition of excess uranium inventory were analyzed for the following alternatives:

No Action Alternative: DOE would continue with existing plans to convert DU to a more stable chemical form at the two new conversion facilities and would not enrich or sell any of its excess DU inventory as proposed in this EA. DOE would also continue to store excess NU and LEU in their current configurations at Portsmouth and Paducah.

Alternative 1—Enrichment: DOE would contract for enrichment of excess DU, NU, and LEU and subsequent storage or sale of the resultant NU or LEU product. DOE would ship by commercial carriers (truck, rail, barge, and/or ship) excess DU, NU, and LEU to one or more of four enrichment facilities (three domestic and one foreign). LEU product could be stored at up to three U.S. commercial nuclear fuel fabrication facilities in North Carolina, South Carolina, and/or Washington State, and/or at DOE's Portsmouth or Paducah sites. NU product could be stored at enrichment facilities in Kentucky, New Mexico, and/or Ohio, and/or at DOE's Portsmouth or Paducah sites. DOE would contract with the enrichment facility to store and/or dispose of the DU tails or, in the case of domestic enrichment facilities, to ship the DU tails to DOE Paducah and/or DOE Portsmouth for storage.

Alternative 2—Direct Sale: DOE would introduce excess DU, NU, and LEU into the commercial market through direct sales to appropriately licensed entities. The licensed purchasers would take delivery, transport and enrich the excess inventory, and transport and store the NU or LEU product in essentially the same manner and using essentially the same facilities as would DOE under the Enrichment Alternative.

The potential environmental impacts of all aspects of enrichment operations and the conversion of DU tails have been previously analyzed in existing NEPA documents and have been summarized and incorporated by reference in the EA. In addition, the EA analyzed (1) previously unanalyzed impacts on health and safety from transportation of the excess inventory, LEU product, NU, and DU tails, (2)

impacts associated with accidents and intentional destructive acts (terrorism, sabotage), and (3) economic impacts of the proposed action on the domestic uranium industry. In general, the impacts identified for the Enrichment and Direct Sale Alternatives are similar if not identical. The attached Summary of the EA provides a summarization of the alternatives and the impacts.

Mitigation: The Mitigation Action Plan (MAP), which follows this determination and is an integral part of this FONSI, specifies the analyses the Department would undertake prior to sales and transfers of excess NU, DU, and LEU and commits the Department to implement appropriate mitigation measures to avoid or minimize any potentially significant impacts on the domestic uranium industry.

Conclusion: The potential environmental impacts of the proposed action have been analyzed in the EA. The analysis shows that no significant impacts are likely to occur as a result of the Department undertaking the proposed action. Further, no adverse impacts on the uranium industry are expected as the Department has committed to conduct analysis prior to each transaction and to take appropriate action to mitigate any adverse impacts on the uranium industry.

Determination: Based on the analysis in the subject EA and the commitments in the Mitigation Action Plan outlined below, the Department has determined that the proposed disposition of the excess uranium inventory of DU, NU, and LEU using one or a combination of two methods—(1) enriching it and then storing or selling the resultant product, and/or (2) selling excess DU, NU, and LEU inventory to appropriately licensed entities—would not have significant environmental impacts, including impacts on the domestic uranium mining, conversion or enrichment industry (domestic uranium industry) and is not a major Federal action that would significantly affect the quality of the human environment within the context of NEPA. Therefore, the preparation of an EIS is not required.

Mitigation Action Plan for the Disposition of DOE Excess Depleted Uranium, Natural Uranium, and Low-Enriched Uranium

Purpose: This Mitigation Action Plan will be implemented by DOE to mitigate any potentially significant impacts on the domestic uranium industry from DOE's decision to disposition the excess NU, DU, and LEU inventory at DOE's Paducah and Portsmouth sites by enriching it, and then storing or selling the resultant product, and/or selling

excess NU, DU, and LEU inventory to appropriately licensed entities, as analyzed in the *Environmental Assessment for the Disposition of DOE Excess Depleted Uranium, Natural Uranium, and Low-Enriched Uranium*.

Mitigation Action Plan: The DOE NEPA requirements governing mitigation action plans are set forth at 10 CFR 1021.331. This regulation specifies at 10 CFR 1021.331(b) that, in cases where an EA supports a Finding of No Significant Impact (FONSI), DOE shall also prepare a MAP for commitments to mitigation that are essential to render the impacts of the proposed action not significant. In such cases, the MAP must address all commitments to such necessary mitigations and explain how mitigation will be planned and implemented. The MAP must be prepared before the FONSI is issued, and referenced in the FONSI. In addition, the MAP must be as complete as possible, commensurate with the information available regarding the action to be covered by the FONSI, and may be revised as more specific and detailed information becomes available. 10 CFR 1021.331(c).

This MAP addresses the DOE commitments that are necessary and how they will be planned or implemented to mitigate any potentially significant impacts on the domestic uranium industry from DOE's Proposed Action. In the EA, DOE identified two mitigation measures that underlie its analysis and would be utilized to mitigate any potentially significant impacts on the domestic uranium industry from its Proposed Action: (1) Prior to particular sales or transfers of NU and LEU, as applicable, a Secretarial Determination pursuant to section 3112(d) of the USEC Privatization Act (Pub. L. 104-134) would be prepared to determine that there is no adverse material impact from the sale or transfer on the domestic uranium industry; and (2) prior to particular sales or transfers of DU, DOE would conduct an analysis to ensure there would be no potentially significant impacts from the sale or transfer on the domestic uranium industry (EA, Section 4.3.2).

The first mitigation measure is required under the USEC Privatization Act for certain sales or transfers of NU and LEU and DOE would plan and implement that measure consistent with existing law¹ and policy. That is, DOE

¹ Although DOE compliance with the requirements of section 3112(d) of the USEC Privatization Act is included in this MAP as a mitigation measure, it should be noted that it is an integral element of the Proposed Action and, as such, need not be included or described in this MAP. However, it has been included herein to

would conduct a market impact analysis to determine the potential impacts of the proposed sale or transfer on the domestic uranium industry taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and other uranium sales or transfers by the DOE (including the National Nuclear Security Administration). Among other things, the market impact analysis would consider, as appropriate, current and projected uranium prices, enrichment capacity, uranium mining activities, and commercial contracting practices. Should the market impact analysis indicate adverse material impacts on the domestic uranium industry, the proposed sale or transfer would be adjusted as necessary to ensure that such adverse impacts are avoided or mitigated. The sale or transfer may be approved and implemented only if the Secretary determines that the sale or transfer would not have adverse material impacts on the domestic uranium industry.

The second mitigation measure applies to DU and is not required under the USEC Privatization Act; however, as indicated in the EA, DOE would conduct an analysis prior to particular sales or transfers of DU to ensure there would be no potentially significant impacts to the domestic uranium industry. Conducting such an analysis would be consistent with DOE policies for uranium management as outlined in the Secretarial Policy Statement, and is a commitment DOE will undertake and include in this MAP in order to mitigate any potentially significant impacts on the domestic uranium industry from DOE's proposed sale or transfer of DU. The market impact analysis would be prepared prior to a particular sale or transfer, and would be similar in form and content to the market impact analysis that underlies a Secretarial Determination pursuant to the USEC Privatization Act. That is, DOE would conduct a market impact analysis to determine the potential impacts of the proposed sale or transfer on the domestic uranium industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and other uranium sales or transfers by the DOE (including the National Nuclear Security Administration). Among other things, the market impact analysis would consider, as appropriate, current

provide a comprehensive explanation of the actions that would be undertaken by DOE to mitigate any potentially significant impacts on the domestic uranium industry from the Proposed Action.

and projected uranium prices, enrichment capacity, uranium mining activities, and commercial contracting practices. Should the market impact analysis indicate potentially significant impacts on the domestic uranium industry, the proposed sale or transfer would be adjusted as necessary to ensure that such potentially significant impacts are avoided or mitigated. The sale or transfer of DU may be approved and implemented only if the market impact analysis indicates that the sale or transfer would not result in potentially significant impacts on the domestic uranium industry.

With these commitments in place, the Proposed Action would be implemented by DOE in a manner that would avoid or mitigate any potentially significant impacts on the domestic uranium industry. This MAP may be revised in the future as more specific and detailed information becomes available.

Issued in Washington, DC, on June 24, 2009.

R. Shane Johnson,

Acting Assistant Secretary, Office of Nuclear Energy.

Final Environmental Assessment Disposition of DOE Excess Depleted Uranium, Natural Uranium, and Low-Enriched Uranium (DOE/EA-1607)

Summary

The U.S. Department of Energy (DOE) owns and manages an inventory of depleted uranium (DU), natural uranium (NU), and low-enriched uranium (LEU) that is currently stored in large cylinders as depleted uranium hexafluoride (DUF₆), natural uranium hexafluoride (NUF₆), and low-enriched uranium hexafluoride (LEUF₆) at the DOE Paducah site in western Kentucky (DOE Paducah) and the DOE Portsmouth site near Piketon in south-central Ohio (DOE Portsmouth)². This inventory exceeds DOE's current and projected energy and defense program needs.

On March 11, 2008, the Secretary of Energy issued a policy statement (the Secretarial Policy Statement) on the management of DOE's excess uranium inventory (Appendix A). The policy statement commits DOE to manage all of its excess uranium inventories in a manner that (1) is consistent with all

²DOE also has additional uranium of varying levels of enrichment that, in the future, may be added to the excess DU, NU, and LEU inventory (e.g., uranium that could be recovered during facility decontamination and decommissioning [D&D]). In addition, the DOE uranium inventory includes quantities of highly enriched uranium (HEU), which is being dispositioned through an ongoing National Nuclear Security Administration (NNSA) program and is not addressed in this EA.

applicable legal requirements; (2) maintains sufficient uranium inventories at all times to meet the current and reasonably foreseeable needs of Departmental missions; (3) undertakes transactions involving non-U.S. Government entities in a transparent and competitive manner, unless the Secretary of Energy determines in writing that overriding Departmental mission needs dictate otherwise; and (4) is consistent with and supportive of the maintenance of a strong domestic nuclear industry.

In accordance with this policy, DOE proposes to disposition part of its excess uranium inventory using one or a combination of two methods: (1) Enrichment to either NU or LEU product, and subsequent storage or sale of the resultant NU or LEU product (the Enrichment Alternative), and (2) direct sale³ to appropriately licensed entities (the Direct Sale Alternative). Under the Enrichment Alternative, DOE could enrich DU to the ²³⁵U content of NU (i.e., 0.711 percent ²³⁵U), and DOE could enrich DU, NU, and/or LEU (with a current ²³⁵U content of less than 4.95 percent) up to 4.95 percent ²³⁵U content. This environmental assessment (EA) assumes that the Proposed Action would result in the annual enrichment and/or sale of amounts of the excess inventory that, combined with other DOE sales or transfers to the market, generally would not exceed 10 percent of the total annual fuel requirements of all licensed U.S. nuclear power plants—that is, approximately 2,000 metric tons of uranium (MTU). In some years, the annual amount enriched and/or sold could be greater than 2,000 MTU (for example, due to startup of new reactors, which requires approximately two times the amount of natural uranium needed for subsequent routine re-loads).

As mentioned previously, the excess inventory that DOE currently proposes to disposition is stored as UF₆ at the DOE Portsmouth site in Ohio and the DOE Paducah site in Kentucky. DOE also anticipates the potential identification of additional amounts of LEU with a ²³⁵U content of less than 4.95 percent. Under the Enrichment Alternative, the uranium could be transported by truck or rail to one or more of three enrichment facilities in the United States or to a foreign enrichment facility. A facility in France is identified as a representative foreign facility for the purposes of assessing potential impacts. Shipments to France

³In this EA, the term "sale" includes direct sales, transfers, or other transactions the Department may undertake to disposition its excess uranium inventory.

could be via any of several east-coast or gulf-coast U.S. ports; however, this EA assumes, for purposes of analysis, that the uranium would be transported by barge to New Orleans, Louisiana, then by ship to France. The LEU product could be stored at up to three U.S. commercial nuclear fuel fabrication facilities (FFFs) in North Carolina, South Carolina, and Washington State, and/or at DOE's Portsmouth or Paducah sites. When DU is enriched to NU, it would be stored at enrichment facilities in Kentucky, New Mexico, and/or Ohio, and/or at DOE's Portsmouth or Paducah sites. The DU that would result from the enrichment process, called "DU tails", would be stored and managed at the enrichment facility or be transported to and stored and managed at DOE's Portsmouth or Paducah sites.

In this EA, DOE assesses the potential environmental impacts associated with this Proposed Action and a No Action Alternative. The potential impacts of all aspects of enrichment operations and the conversion of DU tails, *per se*, have been previously addressed in existing National Environmental Policy Act (NEPA) documents. This EA focuses on previously unanalyzed impacts: (1) Health and safety impacts from transportation of the excess inventory, LEU product, NU, and DU tails; (2) impacts associated with accidents and intentional destructive acts (terrorism, sabotage); and (3) economic impacts of the Proposed Action on the domestic uranium industry.

In general, the impacts identified for the Enrichment and Direct Sale Alternatives are similar if not identical. The potential impacts are summarized as follows:

- For all truck, rail, and barge transport options, for all domestic and foreign enrichment facility locations, and for all storage options, transportation of the entire inventory of DU, NU, and LEU subject to this EA is estimated to result in up to 3 transportation-related fatalities⁴ over approximately 25 years⁵. For overseas transportation, this includes impacts from sea transit, U.S. port operations, and overland transport. These transportation impacts include the

⁴For perspective, over the period 2002 to 2006, about 43,000 people were killed each year in motor vehicle accidents and about 900 people were killed each year in railroad accidents and incidents in the United States (DOT 2007).

⁵Because the actual annual amounts of excess inventory enriched would likely be less than the maximum annual amount, and because it would probably change from year to year, DOE is not limiting the Proposed Action to a particular number of years. However, for purposes of modeling the impacts of processing the entire inventory, 25 years is used.

radiological and nonradiological impacts from incident-free transportation and transportation accidents. The range in impacts presented in this EA is primarily due to differences in the amounts of materials that would be shipped for each case analyzed and differences in the distances over which the materials would be shipped.

- For enrichment at the National Enrichment Facility (NEF) near Eunice, New Mexico, the truck or rail transportation impacts would be higher than for enrichment at Paducah, Kentucky, or Portsmouth, Ohio, because the NU, LEU, or DU feed would be shipped greater distances; the DU tails and NU product, could be stored/dispositioned by NEF, or could be shipped back to Paducah or Portsmouth.

- The probability of a latent cancer fatality (LCF) for the maximally exposed individual (MEI) along the truck transportation routes was estimated to range from 8.3×10^{-8} to 5.3×10^{-7} over 25 years. For the analysis, the MEI was located 30 meters from the highway and was exposed to all truck shipments. The shipments are assumed to travel at a speed of 24 kilometers (15 miles) per hour, which is representative of speeds in urban areas.

- The probability of an LCF for the MEI along the rail transportation routes was almost identical to truck transport, ranging from 8.2×10^{-8} to 5.2×10^{-7} over 25 years. For the analysis, the MEI was located 30 meters from the railroad and was exposed to all rail shipments. The shipments are assumed to travel at a speed of 24 kilometers (15 miles) per hour, which is representative of speeds in urban areas.

- The transportation-related impacts of transporting the uranium to New Orleans by barge would be less than the impacts of transporting the uranium there by truck or rail due to the fewer number of required shipments and the fact that the exposed population would be smaller for barge transport.

- Severe rail accidents would have higher consequences than truck accidents because each railcar would carry four cylinders of DU, NU, or LEU (feed), compared with only one for each truck. For LEU product, each railcar would carry 12 cylinders, compared with 3 to 5 for each truck.

- DOE estimated that the radiological risks of transportation accidents for truck shipments (probability of occurrence \times consequence summed over a complete spectrum of accidents, including the severe accidents discussed below) ranged from 0.042 to 0.96 LCFs over 25 years.

- DOE also estimated the consequences of severe truck accidents. For a severe truck accident involving one cylinder of depleted uranium hexafluoride (DUF_6), the population radiation dose could be as high as 32,000 person-rem in an urban area if stable atmospheric conditions existed at the time of the accident. Based on this population radiation dose, it was estimated that there could be 20 LCFs in the assumed exposed population of about 3 million people. The radiation dose for the MEI was estimated to be as high as 0.91 rem and the probability of an LCF for this individual was estimated to be 0.0005. The probability of this accident ranged from 8.1×10^{-4} to 0.016 over 25 years.

If the severe transportation accident involved NU feed or product, the radiological consequences would be higher—about 28 LCFs in the assumed exposed population. For the MEI, the probability of an LCF would be 8×10^{-4} . The probability of this accident ranged from 1.5×10^{-4} to 0.0055 over 25 years for those cases where NU is shipped. However, for several cases, NU would not be shipped and the probability of this accident would be zero.

If the severe transportation accident involved LEU product, the radiological consequences would range from about 75 to 125 LCFs in the assumed exposed population, assuming that all three or five 30B cylinders, respectively, in a truck shipment were breached during the severe accident. For the MEI, the probability of an LCF would be 0.002 or 0.0036 if three or five 30B cylinders, respectively, were breached during the severe accident. If three 30B cylinders were involved in the accident, the probability of the accident would range from 2.2×10^{-4} to 9×10^{-4} over 25 years for those cases where LEU is shipped. If five 30B cylinders were involved in the accident, the probability would range from 1.3×10^{-4} to 5.4×10^{-4} over 25 years for those cases where LEU is shipped. However, for several cases, LEU would not be shipped and the probability of this accident would be zero. In addition, the probability associated with this accident does not incorporate the effects of the protective overpack surrounding the 30B cylinders, which would reduce the probability of the accident to a range of 4.4×10^{-5} to 1.8×10^{-4} over 25 years if three 30B cylinders were involved or a range of 2.7×10^{-5} to 1.1×10^{-4} over 25 years if five 30B cylinders were involved.

- DOE estimated that the radiological risks of transportation accidents for rail shipments (probability of occurrence \times

consequence summed over a complete spectrum of accidents, including the severe accidents discussed below) ranged from 0.051 to 0.97 LCFs over 25 years. The radiological risks for rail and truck transportation accidents are similar because the total number of cylinders shipped by rail and truck is the same.

- DOE also estimated the consequences of severe rail accidents. For a severe rail accident involving four cylinders of DUF_6 , the population radiation dose could be as high as 130,000 person-rem in an urban area if stable atmospheric conditions existed at the time of the accident. Based on this population radiation dose, it was estimated that there could be 80 LCFs in the assumed exposed population of about 3 million people. Under this scenario, the radiation dose for the MEI was estimated to be as high as 3.7 rem, and the probability of an LCF for this individual was estimated to be 0.002. The probability of this accident ranged from 2.4×10^{-4} to 0.003 over 25 years.

If the severe transportation accident involved NU feed or product, the radiological consequences would be higher—about 110 LCFs in the assumed exposed population and the probability of an LCF for the MEI would be 0.003. The probability of this accident ranged from 4.4×10^{-5} to 0.0011 over 25 years for those cases where NU is shipped. However, for several cases, NU would not be shipped and the probability of this accident would be zero.

If the severe transportation accident involved LEU product, the radiological consequences would be about 310 LCFs in the assumed exposed populations, assuming that all twelve 30B cylinders in a rail shipment were breached during the severe accident. For the MEI, the probability of an LCF would be 0.009. The probability of this accident ranged from 4.3×10^{-5} to 2.6×10^{-4} over 25 years for those cases where LEU is shipped. However, for several cases, LEU would not be shipped and the probability of this accident would be zero. In addition, the probability associated with this accident does not incorporate the effects of the protective overpack surrounding the 30B cylinders, which would reduce the probability of the accident to a range of 4.3×10^{-6} to 2.6×10^{-5} over 25 years.

- For both the truck and rail severe transportation accidents, the accidents were assumed to take place in an urban area with a population density of 1,600 people per square kilometer. Potential consequences were estimated for the population within a 50-mile (80-kilometer) radius, assuming that this population density extended out to 50

miles (80 kilometers). It is important to note that according to the 2000 census, the average population density within 50 miles of the center of the 20 highest population urbanized areas in the United States is about 380 people per square kilometer, so the consequences would likely be lower if a severe truck or rail accident took place in an urban area. In addition, the severe accidents were assumed to take place during stable atmospheric conditions. As illustrated in Table 4–13, if the accidents took place during neutral atmospheric conditions, the consequences would be substantially lower. For example, if the severe truck accident involving LEU product occurred during neutral atmospheric conditions, the consequences would range from 3 to 5 LCFs, substantially lower than 75 to 125 LCFs. If the severe rail accident involving LEU product occurred during neutral atmospheric conditions, the consequences would be about 12 LCFs, substantially lower than 310 LCFs.

- Three individuals could suffer irreversible health effects from severe truck accidents and four individuals could suffer irreversible health effects from severe rail accidents due to the chemical toxicity associated with UF₆, hydrogen fluoride (HF), and uranyl fluoride (UO₂F₂). No fatalities are estimated to result from chemical exposure.

- Although it is not possible to predict the probability of an intentional destructive act, implementation of elements identified in the Department of Transportation-required security plan (personnel security, unauthorized access, and en route security) are judged to make these occurrences very unlikely. The consequences of such acts would be similar to the consequences discussed above for severe truck and rail accidents involving DU, NU, and LEU.

- If a severe accident involving stored LEU product were to occur, the accident would result in an estimated population dose. For example, at Global Nuclear Fuel–Americas (GNF–A), a severe accident was estimated to result in a population dose of 29,000 person-rem. In the assumed exposed population around the GNF–A facility, this radiation dose is estimated to result in 17 LCFs. The radiation dose for an individual located 2 kilometers from the facility was estimated to be 5 rem. The probability of an LCF for this person is estimated to be 0.003. If this accident occurred at other sites, the results would vary depending on the amount of material involved in the accident; the enrichment of the UF₆; the release fractions, aerosolized fractions, and

respirable fractions; release assumptions such as whether the release was elevated or from ground level; the number of people exposed; atmospheric conditions; and radiation dosimetry assumptions.

- The potential market impacts (including socioeconomic impacts) on the domestic uranium mining, conversion, and enrichment industries (*i.e.*, domestic uranium industry) from direct sales or transfers of uranium under the Proposed Action are expected to be small. In any event, DOE has prepared a mitigation action plan (MAP) to mitigate any potentially significant impacts on the domestic uranium industry from DOE decisions to disposition the excess NU, DU, and LEU inventory at DOE's Paducah and Portsmouth sites as analyzed in this EA.

- Cumulative impacts under the Enrichment Alternative would essentially be the same as those previously evaluated for the sites involved because DOE's uranium inventory would not increase the sites' enrichment capacity or throughput. Under the Direct Sale Alternative, DOE assumes that actions by the purchasers would be essentially the same as DOE under the Enrichment Alternative. For that reason, DOE finds that the cumulative transportation, enrichment, and storage impacts of the Direct Sale Alternative would be essentially identical to those of the Enrichment Alternative. The cumulative impacts that would occur under the No Action Alternative assessed in this EA are the same as the cumulative impacts identified for the two new conversion facilities at Paducah and Portsmouth.

[FR Doc. E9–15534 Filed 6–30–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR09–13–000]

BP Canada Energy Marketing Corp, Complainant v. Kinder Morgan Cochin LLC, Respondent; Notice of Complaint

June 24, 2009.

Take notice that on June 19, 2009, pursuant sections 2, 3(1), 4(1), 9, 13(1), and 15(1) of the Interstate Commerce Act, 49 U.S.C. app. 2, 3(1), 4(1), 9, 13(1), and 15(1) (1988), Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, and section 343.2 of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.2, BP

Canada Energy Marketing Corp (Complainant) filed a formal complaint against Kinder Morgan Cochin LLC (Respondent) challenging the Respondent's line fill policy which Complainant alleges has expired by its own terms, but Respondent continues to apply the policy to its shippers.

The Complainant states that copies of the complaint were served on the Respondent.

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 9, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9–15457 Filed 6–30–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER96–1085–013]

South Carolina Electric & Gas Company; Notice of Filing

June 24, 2009.

Take notice that on January 13, 2009, South Carolina Electric & Gas Company (SCE&G) filed a response to the Commission's December 23, 2008 Letter Order requesting SCE&G to submit additional information regarding its updated market power analysis filed with the Commission on September 2, 2008.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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. E9–15456 Filed 6–30–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8924–9]

Issuance of a Final NPDES General Permit (GP) for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country Within the Boundaries of the State of Washington (Permit Number WAG–13–0000)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Issuance of final NPDES General Permit.

SUMMARY: On November 12, 2008, the Director, Office of Water and Watersheds, EPA Region 10, proposed to issue a general permit to cover federal aquaculture facilities and aquaculture facilities in Indian Country in the State of Washington that meet minimum size thresholds of 20,000 pounds annual production and 5,000 pounds of feed used in the maximum month of feeding. During the 47-day comment period, EPA received comments from six people representing four organizations and has prepared a Response to Comments document to explain changes made in the permit and reasons for not making changes that were requested. EPA received certification for the permit under Section 401 of the Clean Water Act from the Lummi Nation, the Makah Tribe, the Spokane Tribe, the Tulalip Tribes, and the Washington Department of Ecology.

DATES: The permit will become effective August 1, 2009 and will expire July 31, 2014. The permit issuance date is July 15, 2009.

ADDRESSES: Copies of the General Permit and the Response to Comments may be requested from Audrey Washington, EPA Region 10, 1200 Sixth Avenue, Suite 900, OWW–130, Seattle, WA 98101–3140, by phone at (206) 553–0523, or by e-mail: washington.audrey@epa.gov.

FOR FURTHER INFORMATION CONTACT: Copies of the general permit, fact sheet, and response to comments are available on the EPA Region 10 Web site at <http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/General+NPDES+Permits#fedaqua>.

SUPPLEMENTARY INFORMATION:**A. Endangered Species Act**

EPA has determined that issuance of the General Permit is not likely to adversely affect threatened or endangered salmonids, birds, or marine mammals, their designated critical habitat, or essential fish habitat. EPA has also determined that issuance of the

General Permit will have no effect on any threatened or endangered marine reptiles, terrestrial mammals, invertebrates, or their designated critical habitats. Consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service is ongoing.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

C. Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

D. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires federal agencies to assess the effects of their "regulatory actions" (defined to be the same as "rules" subject to the RFA) on tribal, state, and local governments and the private sector. However, general NPDES permits are not "rules" subject to the requirements of 5 U.S.C. 553(b) and are therefore not subject to the UMRA.

E. Appeal of Permits

Any interested person may appeal the general permit in the Federal Court of Appeals in accordance with Section 509(b)(1) of the Clean Water Act. This appeal must be filed within 120 days after the permit issuance date. Persons affected by the permits may not challenge the conditions of the permits in further EPA proceedings (*See* 40 CFR 124.19). Instead they may either challenge the permit in court or apply for an individual NPDES permit.

Dated: June 23, 2009.

Michael A. Bussell,

Director, Office of Water & Watersheds, Region 10.

[FR Doc. E9–15417 Filed 6–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0565; FRL-8423-7]

Pesticide Product Registration; Conditional Approval**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This notice announces Agency approval of an application submitted by MacIntosh and Associates, Incorporated (on behalf of Pasteuria Bioscience, Incorporated), to conditionally register the pesticide product *Pasteuria usgae* – BL1 containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

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

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

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

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

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

B. How Can I 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-2008-0565. 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.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

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. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Pasteuria usgae*, and information on social, economic, and environmental benefits

to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Pasteuria usgae* during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that this conditional registration is in the public interest. Use of this pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of this pesticide will not result in unreasonable adverse effects to man and the environment.

III. Conditional Approval Form

EPA issued a notice, published in the **Federal Register** of August 13, 2008 (73 FR 47166) (FRL-8376-3), which announced that MacIntosh and Associates, Incorporated, 1203 Hartford Avenue, Saint Paul, MN 55116-1622 (on behalf of Pasteuria Bioscience, Incorporated, 12085 Research Drive, Suite 185, Alachua, FL 32615), had submitted an application to conditionally register the pesticide product, *Pasteuria usga* – BL1, manufacturing-use product (EPA File Symbol 85004-R), containing *Pasteuria usgae* at 0.01%, an active ingredient not included in any previously registered product.

Listed below is the application conditionally approved on June 2, 2009.

Pasteuria usgae – BL1. For manufacturing into nematocidal end-use products intended to control sting nematode (*Belonolaimus longicaudatus*) in turf. EPA Reg. No. 85004-1.

List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: June 23, 2009.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9-15321 Filed 6-30-09; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2009-0481; FRL-8425-1]

Proposed Stipulated Injunction Involving Pesticides and Eleven Species Listed as Threatened or Endangered Under the Endangered Species Act; Notice of Availability**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of availability; request for public comment.

SUMMARY: EPA is making available for comment a proposed Stipulated Injunction that would establish a series of deadlines for the Agency to make "effects determinations" and initiate consultation, as appropriate, with the U.S. Fish and Wildlife Service for certain pesticides in regard to one or more of 11 species found in the greater San Francisco Bay area that are listed as endangered or threatened under the Endangered Species Act. EPA will evaluate all comments received during the public comment period to determine whether all or part of the proposed Stipulated Injunction warrants reconsideration or revision. This proposed Stipulated Injunction, if entered by the Court, would resolve a lawsuit brought against EPA by the Center for Biological Diversity in the United States District Court for the Northern District of California.

DATES: Comments must be received on or before July 16, 2009.**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2009-0481, 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 Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2009-

0481. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index 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 Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Arty Williams, Environmental Fate and Effects Division (7507P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7695; fax number: (703) 305-6309; e-mail address: williams.arty@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 particular interest to the Center for Biological Diversity (CBD), CropLife America, Responsible Industry for a Sound Environment, Reckitt Benckiser, other public interest groups, state regulatory partners, other interested federal agencies, and other pesticide registrants and pesticide users. Since other entities may also 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](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When submitting comments, remember to:

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is making available for comment a proposed Stipulated Injunction that would establish a series of deadlines for the Agency to make “effects determinations” and initiate consultation, as appropriate, with the U.S. Fish and Wildlife Service (FWS) in connection with 74 pesticides and 11 species listed under the Endangered Species Act (ESA) as either endangered or threatened. The species, found in the greater San Francisco Bay area, are: Alameda whipsnake, bay checkerspot butterfly, California clapper rail, California freshwater shrimp, California tiger salamander, delta smelt, salt marsh harvest mouse, San Francisco garter snake, San Joaquin kit fox, tidewater goby, and valley elderberry longhorn beetle. EPA will evaluate all comments received during the public comment period to determine whether all or part of the proposed Stipulated Injunction warrants reconsideration or revision. This proposed Stipulated Injunction, available in the public docket, if entered by the United States District Court for the Northern District of California, would resolve a lawsuit brought against EPA by CBD.

III. Background

On May 30, 2007, CBD filed a lawsuit in the Federal District Court for the Northern District of California alleging that EPA failed to comply with 16 U.S.C. 1531–1544 in regard to 47 pesticides and 11 species that are listed as endangered or threatened under the ESA (*Center for Biological Diversity v. EPA*, No. C 07-02794 JCS (N.D. Cal.)). Ultimately, 74 pesticides came to be at issue in this case. EPA has reached an agreement with CBD that would establish a schedule for EPA to come into compliance with section 7(a)(2) of the ESA for these 74 pesticides and 11 species, and would include interim injunctive relief intended to reduce the potential exposure of the 11 species to these pesticides during the period of time in which EPA will be satisfying its section 7(a)(2) consultation obligations. The agreement is embodied in the proposed Stipulated Injunction that is being made available for review and comment through this notice.

The 74 pesticide active ingredients named in the lawsuit are: 2,4-D, acephate, acrolein, alachlor, aldicarb, aluminum phosphide, atrazine, azinphos-methyl, bensulide, beta-cyfluthrin, bifenthrin, brodifacoum, bromadiolone, bromethalin, carbaryl, carbofuran, chlorophacinone, chlorothalonil, cholecalciferol, chlorpyrifos, cyfluthrin, cyhalothrin (lambda), cypermethrin, deltamethrin, diazinon, difethialone, dimethoate, diphacinone, diquat dibromide, disulfoton, endosulfan, EPTC (eptam), esfenvalerate, ethoprop, fenprothrin, fipronil, fluvalinate, imidacloprid, magnesium phosphide, malathion, maneb, mancozeb, metam sodium, methamidophos, methidathion, methomyl, methoprene, methyl bromide, metolachlor, naled, oryzalin, oxydemeton-methyl, oxyfluorfen, PCNB, pendimethalin, permethrin, phenothrin, phomet, phorate, potassium nitrate, propargite, resmethrin, s-metolachlor, simazine, sodium cyanide, sodium nitrate, strychnine, tetramethrin, thiobencarb, tralomethrin, trifluralin, warfarin, zeta-cypermethrin, and zinc phosphide. EPA has already made effect determinations for 6 of these pesticides relative to a subset of the 11 species: 2,4-D, alachlor, atrazine, endosulfan, permethrin, and phorate. For the remaining pesticides, EPA will make effect determinations for each of these pesticides and some subset of the 11 species at issue on a rolling basis, starting with a first batch of effect determinations due October 20, 2009, and ending with a last batch of effect determinations due no later than June 30, 2014.

In addition, and as already mentioned above, the Stipulated Injunction would (with some exceptions) enjoin, vacate and set aside EPA’s authorization of use of the pesticides in and adjacent to certain habitat features associated with each of the 11 species in specific geographic areas within 8 California counties (Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma). This interim injunctive relief would terminate automatically for a pesticide upon the completion of EPA’s consultation obligation under section 7(a)(2) of the ESA (including a “no effect” determination) for the particular pesticide. The Stipulated Injunction would also require EPA to develop and distribute a brochure regarding the Stipulated Injunction and the 11 species, provide certain information to certified pesticide applicators in California, and provide certain information to the public through the EPA web site.

Beginning July 1, 2009, EPA is opening a 15-day comment period on the proposed Stipulated Injunction. EPA will review any comments received to determine whether all or part of the proposed Stipulated Injunction warrants reconsideration or revision. If EPA determines that any part of the proposed Stipulated Injunction merits reconsideration or revision, EPA will contact CBD concerning this matter and the proposed Stipulated Injunction will not be submitted to the Court until EPA and CBD reach agreement on any such changes. If EPA determines that the proposed Stipulated Injunction does not need to be reconsidered or revised, the proposed Stipulated Injunction will be submitted to the Court and shall become effective upon entry of an Order by the Court ratifying the Stipulated Injunction. Once the Stipulated Injunction is ratified by Order of the Court, EPA will post on its web site at <http://www.epa.gov/pesticides> a notice indicating the Stipulated Injunction has been so entered.

List of Subjects

Environmental protection,
Endangered species.

Dated: June 25, 2009.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances

[FR Doc. E9–15531 Filed 6–30–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0321; FRL–8417–2]

Sodium Dimethyldithiocarbamate; Notice of Receipt of Requests for Amendments to Delete Uses in a Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in a pesticide registration. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: The deletions are effective July 31, 2009, unless the Agency receives a written withdrawal request on or before July 31, 2009. The Agency will consider a withdrawal request postmarked no later than July 31, 2009.

Users of this product who desire continued use on crops or sites being deleted should contact the applicable registrant on or before July 31, 2009.

ADDRESSES: Submit your withdrawal request, identified by docket identification (ID) number EPA-HQ-OPP-2009-0321, by one of the following methods:

- *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.

FOR FURTHER INFORMATION CONTACT: Eliza Blair, Antimicrobials (7510P) Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-7279; e-mail address: blair.eliza@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although, this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established a docket for this action under docket ID

number EPA-HQ-OPP-2009-0321. 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. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in a pesticide registration. This registration is listed in Table 1 of this unit by registration number, product name, active ingredient, and specific uses deleted:

TABLE 1.—REQUESTS FOR AMENDMENTS TO DELETE USES IN A PESTICIDE REGISTRATION

EPA Registration No.	Product Name	Active Ingredient	Delete from Label
1965-8	Vancide 51	Sodium Dimethyldithiocarbamate	Preservation of Cotton Fabric; Preservation of Wood Veneer; Preservation of Alginate Pastes

The sodium dimethyldithiocarbamate registrant has requested that the Agency waive the 180-day comment period. The Agency will provide a 30-day comment period on the proposed requests.

Users of this product who desire continued use on crops or sites being deleted should contact the applicable registrant before July 31, 2009 to discuss withdrawal of the application for amendment. This 30-day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

Table 2 of this unit includes the name and address of record for the registrant of the product listed in Table 1 of this unit, in sequence by EPA company number.

TABLE 2.—REGISTRANT REQUESTING AN AMENDMENT TO DELETE USES IN A PESTICIDE REGISTRATION

EPA Company Number	Company Name and Address
1965	R.T. Vanderbilt Co. Inc. 30 Winfield St Norwalk, CT 06856-5150

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit the withdrawal in writing to Eliza Blair using the methods in **ADDRESSES**. The Agency will consider written withdrawal requests postmarked no later than July 31, 2009.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Antimicrobials, Pesticides and pests, Dimethyldithiocarbamate salts, Sodium dimethyldithiocarbamate.

Dated: June 11, 2009.

Joan Harrigan Farrelley,
Director, Antimicrobials Division, Office of
Pesticide Programs.

[FR Doc. E9-14997 Filed 6-30-09; 8:45 a.m.]

BILLING CODE 6560-50-S

FEDERAL ELECTION COMMISSION

[Notice 2009-10]

Web Site and Internet Communications Improvement Initiative

AGENCY: Federal Election Commission.

ACTION: Notice of public hearing and request for public comments.

SUMMARY: The Federal Election Commission (the "FEC" or "Commission") has adopted an initiative to seek public comment on how to improve all aspects of how the Commission discloses information to the public on its Web site and through the use of Internet communications. While the FEC, which was first constituted in 1975, continually engages in ongoing efforts to improve all aspects of how the Commission discloses information through the Internet, with a primary focus on its Web site, the FEC has never before sought formal public comment on the means by which the Commission discloses information to the public.¹ As part of these efforts, the Commission is seeking written comments and will conduct a public hearing on ways the Commission can improve how it communicates to the public using the Internet and, specifically, how it can improve its Web site to ensure that the FEC Web site is a state-of-the-art resource for disclosure of information to the public including (1) disclosure of campaign finance data, (2) information about Federal campaign finance laws, and (3) the actions of the Commission.

The Commission seeks comment from all segments of the public, including representatives of political committees, Federal candidates and officeholders, members of the media, authors, students of all ages, members of the academic community, and advocacy groups.

In addition to comments from the public, the Commission specifically seeks comment from those with relevant technical expertise, including technical advisors, consultants, researchers, other

¹ In 2003, the FEC began a Web site redevelopment project that resulted in a redesign of both the appearance of the site as well as the production process. The revised Web site went live in 2004 and the FEC continually seeks and receives input on how to improve the Web site. This initiative will provide the first forum for formal public comments to the Commission.

governmental and non-governmental agencies, non-profit entities and commercial vendors to assist with the Commission's efforts to improve the how it uses the Internet to disclose information to the public and particularly efforts to improve the FEC Web site. Such advice and information may include recommendations to the Commission for (1) expanding the Web site's disclosure features, (2) improving the information available on the Web site and ways in which that information is organized, and (3) maximizing the benefit of current and anticipated technology related to Web site services.

The Commission's policy regarding which documents are placed on the public record from closed enforcement, administrative fines and alternative dispute resolution cases is outside the scope of this initiative, and the Commission is specifically not seeking comments with respect to this issue. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 FR 70426 (Dec. 18, 2003). The Commission plans to conduct a separate hearing with full opportunity for public comment on the issue later in the year.

DATES: Comments must be received on or before July 21, 2009. A public hearing will be held on Wednesday and Thursday, July 29-30, 2009, from 10 a.m. to 5 p.m. at the Federal Election Commission, 999 E Street, NW., 9th floor Hearing Room, Washington, DC 20463. Anyone seeking to testify at the hearing must file written comments by the due date and must include in the written comments a request to testify.

Format for Comments and Addresses: All comments must be in writing, must be addressed to Mr. Robert Hickey, Staff Director, and must be submitted in either e-mail, facsimile, or paper copy form. Commenters are strongly encouraged to submit comments by e-mail to ensure timely receipt and consideration. E-mail comments must be sent to improvefecinternet@fec.gov. If e-mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments must be sent to (202) 208-3333. Paper comments must be sent to Mr. Robert Hickey, Staff Director, Federal Election Commission, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of the commenter or they will not be considered. The Commission will post all comments on its Web site at <http://www.fec.gov/pages/hearings/internethearing.shtml> shortly after they are received.

FOR FURTHER INFORMATION CONTACT:

Robert Biersack, Special Assistant to the Staff Director for Data Integration, 999 E Street, NW., Washington, DC 20463, (202) 694-1658 or (800) 424-9530. The Commission's Web site can be accessed at <http://www.fec.gov>. Technical information related to the FEC's Web site, including hardware, software, capacity and functionalities can be found at <http://www.fec.gov/pages/hearings/internethearing.shtml>.

SUPPLEMENTARY INFORMATION:

I. Background and Hearing Goals

The FEC is an independent regulatory agency with responsibility for administering, enforcing, defending and interpreting the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 *et seq.*, available at <http://www.fec.gov/law/feca/feca.pdf>) (FECA). The Commission is also responsible for administering the Federal public funding programs for Presidential campaigns and party conventions. This responsibility includes certifying and auditing all participating candidates and committees, and enforcement of the public funding laws. The Commission strives to discharge its statutory mandate by (1) facilitating public disclosure of campaign finance activity, (2) providing information and policy guidance to the public, media, political committees, Federal candidates and officeholders, and election officials on the FECA and Commission regulations, (3) encouraging voluntary compliance with all of the FECA's requirements, and (4) investigating alleged violations of those requirements and seeking civil penalties and other remedies when necessary to enforce the law.

The FEC's Web site is increasingly the Commission's primary vehicle for sharing with the public campaign finance disclosure data, educational materials related to Federal campaign finance laws, the development and implementation of new rules and regulations, Advisory Opinions, and closed enforcement actions. Accordingly, the FEC's Web site and how the Commission uses the Internet to disclose information to the public is critical to the Commission's mission.

In 2008, the Commission received over 5.2 million visits to its Web site, or approximately 14,200 per day, an increase of over 50% from the year before. During the 24-month 2008 election cycle, the Commission received, and disclosed on its Web site, approximately 140,000 financial disclosure reports from nearly 8,000 political committees. These reports contained the equivalent of 11.7 million pages of financial data, disclosing

approximately \$8.3 billion in political contributions and spending related to Federal elections.

The Commission anticipates that the trend of increased traffic coming to the Commission's Web site will continue as more users seek access to information about the Federal campaign finance laws and about how Federal campaigns are financed. To improve the Web site's usefulness to the public, the Commission is seeking, through this proceeding, ways to provide the public with more timely information, as well as ways to make its Web site more user-friendly, more educational, more analytical, more accessible, and more interesting.

Among the topics on which the Commission requests comment are those discussed below. The list is not exhaustive, and the Commission welcomes input on ways in which the Commission can make improvements to the means by which the Commission discloses information to the public through the Internet, and in particular on the Commission's Web site.

However, as indicated above, the Commission's policy regarding which documents are placed on the public record from closed enforcement, administrative fines and alternative dispute resolution cases is outside the scope of this initiative but will be the subject of a separate hearing with full opportunity for public comment later in the year.

II. Introduction

The Commission recognizes that having an abundance of information available on its Web site is of little use if the information is not organized in a way that makes it easily accessible and understandable. Accordingly, it is vital to the public interest that the Commission's Web site be written and organized from the point of view of a potential user who seeks information from an agency. Although the agency's Web site must be citizen-focused, with a general public audience in mind, it must, at the same time, provide information to specialized audiences about specific areas of interest. In each case, whether a visitor to the Commission's Web site seeks general information or very specific data, the Web site should be organized in a visitor-friendly, intuitive fashion. Information should be easy to extract and it should be presented in a clear, logical and appealing manner that is easy to read and understand whether displayed on the screen, or when printed in hardcopy format.

III. The Primary Users of the Commission's Web Site

In order to ensure that the Commission's Web site adequately serves those who seek information from the Commission, the Commission must properly identify who its primary users or viewers are, including potential users who access campaign finance information from other sources either by choice or because they do not know about the Commission's Web site. These users may include members of the general public, prospective voters, prospective Federal candidates and officeholders, representatives of registered political committees such as committee treasurers, members of the media, including bloggers and the more specialized trade media, and members of the academic community, including policy institutes and advocacy groups. Users also include State and local election officials and officeholders, members of the legal profession, teachers and students, as well as other academics and librarians. The Commission seeks comment from each of these diverse audiences on whether the Commission's Web site is presently meeting their specific needs and about ways in which the Commission uses the Internet to disclose information to the public and the Commission's Web site can be improved to better serve these needs. Additionally, the Commission seeks comment on whether there may be other audiences in addition to those listed above that may seek information from the Commission's Web site. If so, how well does the current Web site serve those audiences, and what improvements can be made to serve them better?

IV. What Tasks Do the Commission's Primary Customers Perform Most Often on the Web Site?

Different audiences seeking information from the Commission's Web site search for distinct categories of information and perform diverse tasks when accessing the Web site. For instance, members of the general public might be seeking a range of information that could span from accessing contribution and expenditure data related to a recent or upcoming election to seeking information about the \$3 IRS income tax form check-off that provides funding for the Presidential Election Campaign Fund. A political committee might seek more specialized information such as guidance regarding the Commission's software package that committees use to electronically file their campaign finance disclosure reports or seek information about the

laws that are applicable to the committee's activities. A political committee also might seek information about the requirements or procedures for filing an advisory opinion request with the Commission and guidance about whether a question they have is appropriate for an advisory opinion request. Similarly, a political committee or a member of the public might seek information about the requirements or procedures for filing a complaint alleging a violation of the campaign finance laws or regulations. Members of the media may be interested in an entirely different set of information, such as background on the FECA or perhaps news about the Commission's most recent actions.

The Commission seeks public comment on what tasks or operations are conducted by visitors to the Commission's Web site and specifically about how different audiences may seek to perform these functions differently.

V. How Can the Commission Improve the Way Its Web Site Is Organized?

The Commission has endeavored to design and organize the information on its Web site in a cogent, rational, and intuitive way. The Commission seeks comment from users of the Commission's Web site about the visitor experience. Is navigation of the Commission's Web site intuitive? If not, in what specific ways can it be more intuitive? Are the ways that users navigate each page on the FEC's Web site adequately consistent across the Web site? If not, where do these inconsistencies exist? For example, do similar items on different pages appear in the same location and have the same appearance and wording? Do navigation items of the same type appear the same way and perform the same functions across the Web site?

Do users consider the Commission's current homepage to be sufficiently useful? If not, in what ways could it become more useful? Are visitors easily able to find what they are seeking? The Commission's current homepage is relatively static with almost no content on the homepage changing from day-to-day. The only dynamic content on the homepage is a crawl across the bottom of the page, which is changed, on average, every other week to announce the latest important news from the Commission. In addition, the homepage includes interactive maps to provide users with immediate access to disclosure data. Are these disclosure maps appropriately located on the homepage? Is the homepage too static? Should the homepage list "headlines," "hot topics," or "most requested

information” that could be updated daily or weekly? Or is it best to leave the homepage uncluttered, serving as a top-level directory that allows viewers to access information though available links?

The Commission’s Web site is currently organized by the *type of information* that is available, such as “Campaign Finance Reports and Data” or “Law and Regulations.” Is the information available on the Commission’s Web site organized in a logical sequence? If not, how can it be better organized? Are visitors easily able to ascertain what to do next in their task?

a. Portals

In contrast to the manner in which the Commission’s Web site is currently organized, should the Commission’s homepage serve as a “start task” page, asking visitors what task they seek to perform, which would then take visitors to a task-based portal specifically tailored to the user’s specific task? If so, what should be the topics of these “start task” pages? Alternatively, should the Commission’s Web site be organized by categories of frequent users and have separate portal pages for different audiences based on those visitors’ needs? Or should the Web site first ask the user what category of user he or she falls under (*e.g.*, member of the general public, political committee representative, Federal officeholder) and then offer the user a focused portal based on the types of tasks most frequently performed by users in that category? Is there sufficiently different content to justify dividing the Web site into isolated user-portals? What is the likelihood that organizing the Web site in this way could lead to confusion among new or infrequent visitors? What other costs might such a reorganization entail?

1. The General Public

Should there be a portal page for members of the general public? If so, what information or utilities should be available on such a page? What links to other information would be most helpful for members of the general public or others seeking general campaign finance information?

2. Political Committee Representatives

Should there be a portal page designed specifically for those seeking information on behalf of a registered political committee, such as committee treasurers, that would offer direct access to the resources that are most useful for committee treasurers and other committee representatives? If so, what

resources should be included on such a page? Should a portal page for political committee representatives include a link to a focused set of frequently asked questions (FAQs)? Should there be separate portal pages for different types of political committees such as party committees, corporate or labor organization connected committees (which are often referred to as Separate Segregated Funds or Political Action Committees), or nonconnected committees?

3. Federal Officeholders and Prospective Candidates

Should there be a portal page designed specifically for Federal officeholders and prospective Federal candidates? If so, what resources should be included on such a page? Should there be a separate portal page for candidates, different from one for current officeholders? Should there be different portal pages for House, Senate and Presidential candidates and officeholders? If so, what different content should be on each of these pages? Should a portal page for Federal officeholders and prospective Federal candidates include a link to a focused set of frequently asked questions (FAQs)? Should such a portal page provide procedural guidance for persons, committees or other entities who are subject to FEC proceedings such as audits and enforcement actions?

4. Media

Should there be a portal page designed specifically for members of the media? If so, what resources should be included on a media portal page? Should there be a separate portal page for the general media, different from one for the trade media? Should there be a separate portal page for members of the foreign media? If so, what different content should be on each of these pages? Should a portal page for members of the media include a link to a focused set of frequently asked questions (FAQs)?

5. Academic Community

Should there be a portal page designed specifically for members of the academic community? If so, what resources should be included on an academic community portal page? Should there be a separate portal page for students, different from one for professors? Should there be a separate portal page for policy institutes? If so, what different content should be on each of these pages? Should a portal page for members of the academic community include a link to a focused

set of frequently asked questions (FAQs)?

Are there audiences other than those outlined above for whom the Commission should consider designing a separate portal? If so, for which audiences should the Commission design such portals? Alternatively, should the information be organized in some other way?

VI. User-Experience/User-Friendliness

a. Plain Language

Best practices for government Web sites mandate that a typical user of the Commission’s Web site should be able to understand the Web site content after only one reading—the content should be in plain language. *See* <http://www.plainlanguage.gov>. Ideally, users should not need to spend time “translating” difficult, wordy text. Plain-language writing saves users time and reduces the burden placed on the public. The Commission has worked to meet these goals and seeks comment on whether the language used on the Commission’s Web site is accessible and easy to read. Can first-time or novice users understand information on the Web site easily? If not, please provide specific examples from the Commission’s Web site of language that is not easily understood.

b. Accessibility to Users With Special Needs

Should content on the Commission’s Web site be revised in order to make the content more accessible to users with special needs, such as persons with disabilities? Is information on the Commission’s Web site easily accessible through browse aloud text readers for visually impaired users? Should the Web site have alternative pages for users with low literacy or for foreign-language speakers?

c. Help Functions

Another important aspect of whether a Web site is sufficiently user-friendly is the directions provided to users when they cannot find the information they are looking for. The Commission’s Web site currently has pages providing a list of Frequently Asked Questions (FAQs) and “Quick Answers,” to help users find the information they are seeking. Are these sections of the Web site useful? Should the Web site have a special help section that would guide users to the information they are seeking? Would a “first-time user guide” be helpful? What information might a first time user guide include that would make it different from the FAQ?

Should the Web site have a “contact us” section that would allow users to either send an e-mail to Commission staff or provide a staff telephone directory for users who are still not able to access the information they seek? Web site users can also send questions and feedback about the Web site through e-mail communications to “*Webmanager@fec.gov*.” Is this service sufficiently responsive and informative? Should questions and feedback be made public?

Is the Commission sufficiently receptive to suggestions made through e-mails and phone calls? Have those who have made comments or suggestions received responses from the Commission? Have the responses been satisfactory? If not, why not?

Should the Commission develop a blog to facilitate a conversation about the substance and techniques used by staff to disclose campaign finance data? Should the Web site host other blogs or user groups? If so, what topics should they cover? Should the Web site host user groups where users can interactively discuss substantive areas of campaign finance law and Commission procedures?

VII. Search Engines

a. General Search Engine

The Commission maintains various search engines on its Web site. The general search engine (“General Search Engine”) is located on the Commission’s homepage and returns pages and documents from all portions of the Commission’s Web site other than the contents of three self-contained databases (*i.e.*, the disclosure database, the Advisory Opinion database, and the enforcement database), which can be accessed through the specialized search engines that are discussed below. In addition to a basic search function which allows users to conduct a simple word search, the General Search Engine also has an “advanced search” function that allows users to enter search terms or phrases and find results with (1) all of the words, (2) the exact phrase, (3) any of the words, as well as results without a specific search term or phrase.

b. Specialized Search Engines

In addition to the General Search Engine, the Commission’s Web site contains three specialized search engines that allow users to search only within a specific portion of the Commission’s Web site.

1. Disclosure Database Search Engine

The disclosure database search engine (“Disclosure Database Search Engine”) allows a user to search only within the contribution and expenditure data filed by registered political committees. The Disclosure Database Search Engine includes a search for summary data for candidates and Political Action Committees/Party Committees, as well as searches for detailed data for individual contributors, political committees, and candidates.

2. Advisory Opinion Search Engine

Another specialized search engine allows users to limit their search to information about Commission Advisory Opinions. Specifically, the Advisory Opinion Search Engine (“AO Search Engine”) allows users to search by (1) search terms, including words and phrases, (2) advisory opinion number, (3) requestor name and (4) year. Additionally, the advanced search function of the AO Search Engine allows users to search using more specific criteria.

3. Enforcement Query System

Finally, the Commission’s Web site contains a third specialized search engine, known as the Commission’s Enforcement Query System (“EQS”). This system allows a user to search for information about completed Commission enforcement cases. Specifically, EQS allows users to search within a database containing documents related to completed Commission enforcement cases (including complaints, responses, conciliation agreements and Commissioner statements of reasons) by key words or by information about the cases (*e.g.*, case number, name of respondent, name of complainant, statute or regulation alleged to have been violated).

c. Search Engine Improvements

The Commission seeks comment on whether the Commission’s search engines are sufficiently intuitive and responsive. If not, in what ways can the Commission’s search engines be modified to make them more useful? Are the features of the Commission’s search engines sufficiently sophisticated, robust and flexible to offer suggested choices to a user of words, spellings and phrases based on a user’s query? Are the “advanced search” functions useful to viewers who wish to conduct more refined, focused searches to achieve more relevant results? Are search results displayed in an easy-to-read format both when displayed on the screen and when printed in hardcopy format? If not, in what ways can the visual and printed presentation of the materials be made more useful and appear more

professional? Are search results relevant and comprehensive? Are the most relevant results listed first? Is there adequate help available on the Web site to assist visitors who are unfamiliar with or unskilled at using search technology? Do the search engines produce swift results? The Commission also seeks comment on whether the Commission’s search engines should produce a link for the output of each search that users could then include in e-mails and on their own Web sites that would allow others to instantly access the results of a search.

Should a user be able to make a single query that would simultaneously search through the entire Web site, including the specialized databases? Should a user be able to selectively choose which databases are accessed through a given query? For instance, should a user be able to simultaneously query information only from the Advisory Opinion database and the Enforcement database with a single search? What search functions would be most useful to users?

The Commission also seeks comment on whether the Commission’s Web site should have other specialized search engines in addition to the Disclosure Database Search Engine, the AO Search Engine and EQS. If so, what information should be accessible through such specialized search engines? For example, should the Web site have a specialized search engine devoted to Commission regulations and rulemaking documents such as Notices of Proposed Rulemakings and Explanations and Justifications? Should there be a specialized search engine devoted to information and documents related solely to the Commission’s litigation matters?

VIII. Commission Function and Organization

The Commission’s Web site has an “About the FEC” section that includes information about the FECA, the Commission’s mission and history, and an organizational chart including a description of each of the offices and divisions within the Commission. The Commission seeks comment on whether its Web site provides adequate information about the Commission’s jurisdiction, mission, and internal structure. If not, what additional information should be included? The Commission also seeks comment on whether the Web site provides adequate information about how the Commission is organized (*i.e.*, the responsibilities of each Office and Division within the Commission). What information do other Federal agencies provide on their

Web sites about jurisdiction, mission and organization? Is this information useful? If yes, how so? Are there other Federal or non-Federal government agencies, or other non-governmental entities that maintain Web sites that could serve as a model for the FEC? If so, which agencies and what aspects of their Web sites? Finally, the Commission seeks comment on whether the Web site should contain a staff phone and e-mail directory to make it easier for the public to contact Commission staff directly.

IX. Data Accessibility

a. Current Interactive Maps

The FECA requires accurate and comprehensive public disclosure by Federal candidates and political committees of all contributions and expenditures. Information about these contributions and expenditures is included in the Commission's disclosure database along with millions of other itemized disbursements, receipts and other payments.

Since 2007, the Commission homepage at www.fec.gov has included interactive maps, which provide users with immediate access to contribution and expenditure information for Presidential, Senate and House candidates. Through these maps, users can access the amount of funds raised by State, cash-on-hand, and the distribution of contributions by amount. Furthermore, users can access lists of contributors by name, city, and amounts of contributions within the first three digits of any zip code. Users can also obtain a detailed list of information about how candidates spend their money, including the payee name, purpose, date and amount of each campaign expenditure. Although the Web site allows users to sort the detailed list of expenditures by each category listed above, the Web site does not currently provide separate aggregated amounts for each category. For instance, a user cannot access an aggregated number for the amount a candidate has spent on political advertisements. Would the addition of this feature be useful?

The House and Senate map allows the user to select candidates for comparison using bar charts to display such financial categories as contribution and disbursement totals, debts and cash on hand. It also presents itemized contributions and disbursements by category and includes links to images of reports filed by the candidate and the candidate's committees.

The Commission seeks comment on whether these interactive maps are

useful. How can they be improved? Are there other types of interactive maps or charts that users would find interesting or educational? In what other ways can campaign finance data be made available in a more user-friendly and interactive way?

b. Sorting of Data

The Commission seeks comment on ways in which the Web site should allow users to sort the campaign finance data. For example, should the Web site allow users to sort the data (1) by date or a range of dates, (2) by types of committees (e.g., candidate committees, party committees and corporate and labor organization connected committees), (3) by candidate, (4) by contributor (e.g., name, address, zip code and employer), or (5) alphabetically? What other ways should the Web site allow users to search for or sort the data?

The Commission is aware that other Web sites also provide access to the FEC's campaign finance data. For example, some of these Web sites permit users to sort contribution data into how much has been raised by a candidate or political committee over time, such as on a quarterly, monthly, weekly or daily basis. For expenditures, some of these Web sites allow users to sort campaign spending into categories, such as administrative costs, campaign expenses, fundraising costs and media costs. One Web site allows users to sort contributor information in a number of ways, including by name, address, zip code, employer and contribution amount (e.g., \$200 or less). Additionally, this Web site allows a user to sort contributor information into top donors, top soft money donors, and top Political Action Committee (PAC) categories. This same Web site allows users to sort data into other categories, such as candidate-to-candidate giving, quality of disclosure and source of funds (e.g., individual contributions, PAC contributions and candidate self-financing). Other Web sites identify top contributors, top recipients, top contributing states and top bundlers.

Should the FEC's Web site allow users to sort campaign finance data in ways similar to these other Web sites? If yes, which sorting options would be useful and why? Do these other Web sites allow users to sort the data in any other useful ways? If so, in what ways and should the Commission's Web site also provide these functions?

Should the Commission's Web site allow users to access election-related information other than campaign finance data, such as the number of votes a candidate received in a prior

election? After each Federal election the Commission has historically compiled and published election results in a document entitled Federal Elections, which is made available on the Web site. See <http://www.fec.gov/pubrec/electionresults.shtml>. Is it appropriate for the Commission's Web site to provide access to election-related data that are outside the Commission's direct jurisdiction (e.g., studies and government reports other than campaign finance data)? If not, why not?

c. Compilation, Presentation and Analysis of Data

The Commission also seeks comment on ways in which the Commission should facilitate compilation, presentation and analysis of the campaign finance data. What types of additional analysis of the data would be useful? Should the Commission provide tools for users to be able to generate their own graphs, charts and maps based on the data they have accessed?

Should the Commission permit the storage and presentation of search or sort results? Additionally, should the results from the most popular queries be presented on the Web site for others to view? If yes, should these queries be posted anonymously or should the user be asked for permission before his or her query is posted? If the Commission's Web site allows users to access election-related information that is outside the Commission's direct jurisdiction, such as the number of votes a candidate received in a prior election, should the Commission allow users to sort these data interactively and facilitate compilation, presentation and analysis of these data in relation to campaign finance data? For instance, should the Commission's Web site allow users to calculate the amount spent by a candidate on a campaign relative to the number of votes that candidate received in the election?

d. Availability of Raw Data

The FEC currently provides the ability to download in bulk form, on a daily basis, campaign finance data from all electronic filings received earlier that day. Is this process useful? Are there changes or enhancements to this process that would be useful? For example, should the Commission provide "real-time" access to the bulk data as soon as it is filed throughout the day? Also, should the Commission allow users to download only a designated portion of the data?

The Commission also currently makes selected raw data available for download via File Transfer Protocol (FTP). These files reflect both "as

amended” snapshots of itemized individual contributions to committees and receipts and disbursements where both parties to the transaction are registered with the FEC. Is this general approach valuable? If not, what other alternatives are available? Does the benefit that comes from reducing duplication and other complexities inherent in the raw data the Commission receives justify the time delays required for the FEC to do this work? Are there other categories of financial activity that should be included in this system—*e.g.*, details of spending, debts, etc.? Should specific types of activity (like independent expenditures or electioneering communications) be available as separate files rather than as part of a larger set?

The Commission seeks comment on what improvements can be made to the methods that the Commission uses in making raw campaign finance data available through its Web site. For example, are the data currently available in an adequate format that permits users to aggregate, segregate, or otherwise manipulate and analyze the data? Should the Commission develop a different format for the data that is more consistent with current data

dissemination practices such as XML (Extensible Markup Language) or JSON (JavaScript Object Notation)? Also, should the Commission provide open-source public Application Programming Interfaces (APIs) so that other Web sites can download the data more easily? In what other ways can the Commission facilitate the syndication by other Web sites of data yielded from a search?

The Commission also seeks comment on what improvements can be made to the way the Commission makes data related to amendments to committee reports available to the public. Are those who access campaign finance reports able to easily separate data in reports that have been amended by a reporting committee from the data contained in the report that was originally filed? If not, what would be a better and more understandable way to present that information?

e. Data Storage

Does the Commission need to restructure the way that campaign finance data are stored? For example, although a complete set of bulk raw data is available for download, the Commission’s official COBOL-based database is currently published in a fixed width format that only allows for up to 35 characters in the column containing data about each contributor’s occupation and employer. In other

words, a user searching campaign finance data on the Commission’s Web site will only see the first 35 characters of information (which includes letter, numbers, symbols, as well as spaces between words) about a contributor’s occupation and employer and, as a result, this information is often truncated, thereby providing incomplete information to the public. One observer estimates that this limitation causes a loss of over 20% of the occupation and employer information that should be otherwise accessible through the Commission’s disclosure database. See Federal Election Commission, Hearing on Agency Practices and Procedures (Jan. 15, 2009) (statement of Clay Johnson, Sunlight Foundation), available at <http://www.fec.gov/law/policy/enforcement/2009/01141509hearingtranscript.pdf>.

Although the Commission anticipates releasing a software update shortly that will resolve the truncation issue described above, are there other examples of information that is missing or incomplete in the Commission’s disclosure database? The Commission invites comment on ways the Commission could provide the public with access to fully complete disclosure data.

f. Timeliness of Data Availability

Finally, the Commission seeks comment on whether the Commission’s data are made available in a timely manner. Although electronically filed disclosure reports are available to the public immediately after they are filed, currently the data contained in those reports are reviewed by Commission staff before they are made available through queries and data files on the Commission’s Web site. This staff review, which standardizes the data through such steps as (1) assigning transaction codes, (2) splitting joint contributions reported from married couples, and (3) adding missing committee identification numbers, can take anywhere from a few days to a few weeks to complete. Should the data be made available to the public even before the Commission staff has had time to conduct its review? What risks exist in releasing potentially inaccurate or incomplete data? What are the implications of releasing unreviewed data followed by a second release of the same data in a modified format? Are there risks of confusion with such an approach? If so, what measures could be implemented to avoid such confusion?

X. Educational Materials

The FEC publishes various types of educational materials, all of which can

be accessed on the Commission’s Web site. These materials include (1) brochures (brief summaries of particular provisions of the law or descriptions of the Commission’s programs and procedures), (2) Campaign Guides (compliance manuals for committees registered with the Commission), and (3) *The Record* (the Commission’s monthly newsletter). The Commission also maintains a “Tips for Treasurers” page on its Web site with timely tips and reminders to help political committee treasurers meet their obligations under the law. The Commission also offers an electronic subscription service, FECMail (available at <http://www.fec.gov/info/fecmail.shtml>), which provides subscribers with personalized e-mail updates on the latest Commission news and information.

a. Brochures

The Commission publishes several educational brochures all of which are made available to the public free of charge. Electronic versions of these brochures are also available on the Commission’s Web site. These brochures offer brief summaries of particular provisions of the law or describe FEC programs and procedures. These brochures are available in both HTML and PDF formats at <http://www.fec.gov/pages/brochures/brochures.shtml> and examples of covered topics include (1) Advisory Opinions, (2) Coordinated Communications and Independent Expenditures, and (3) Public Funding of Presidential Elections. The HTML versions of the brochures include interactive links for cited statutes, regulations and Advisory Opinions.

The Commission seeks comments on whether both the printed versions and the electronic versions of the brochures are user-friendly and ways in which they can be improved. Should the Commission continue to publish both printed and electronic versions of the brochures? The Commission also seeks comment on whether the Commission should develop brochures on additional topics and, if so, which topics should be covered.

b. Campaign Guides

The Commission publishes campaign guides, which serve as compliance manuals for Federal political committees. Electronic versions of these guides are available at <http://www.fec.gov/info/publications.shtml#guides>. Separate guides are available for (1) Congressional Candidates and Committees, (2) Political Party

Committees, (3) Nonconnected Committees and (4) Corporations and Labor Organizations. The electronic versions of these guides include all supplements to date, summarizing relevant post-publication rules and opinions. The Commission seeks comment on whether the printed versions and electronic versions of these guides are sufficiently educational, understandable, and presented in a user-friendly manner and, if not, how they can be improved. For example, should important terms be linked by hypertext to other sources available on the Web site, such as links to the text of a cited rule, an Advisory Opinion or court decision? In what other ways can these guides be improved? Should the Commission continue to publish both printed and electronic versions of the guides? More generally, does the Web site contain sufficient guidance about complying with the Commission's reporting requirements? Does the Web site contain sufficient information about complying with contribution limits and other provisions of the FECA? In not, what additional information would be useful?

c. *The Record Newsletter*

The FEC publishes a monthly newsletter, *The Record*, which is automatically sent electronically to all political committees and is also available through the Web site. *The Record* is designed to be a useful resource for anyone interested in the most recent developments in Federal campaign finance law and at the Commission. Each month, *The Record* contains the latest information on reporting deadlines, regulations, advisory opinions, court decisions and other FEC actions. Can *The Record* be improved and, if so, how? Is *The Record* a useful resource for all of the audiences that access the Commission's Web site? Should the Commission produce a different version of *The Record* for different audiences? For instance, should there be an edition of *The Record* specifically targeted to representatives of political committees and a different edition targeted to members of the general public?

d. *Commission Calendar*

The Commission's homepage currently provides a link to a Commission calendar that includes information about Commission public meeting dates, Commission hearing dates, significant filing deadlines and educational programs, as well as other information. Should the Commission include other categories of information? If so, what information should be

included? For example, should the calendar include significant dates related to pending litigation including a schedule of oral arguments?

e. *Materials for the Media*

Currently, the media section of the FEC's Web site is designed as a tool to help members of the media find information quickly and easily. This section contains the Commission's latest press releases and campaign finance information, as well as background information and reference materials. This section also contains a link to a "Weekly Digest" that includes items such as (1) public actions taken by the Commission for the previous week, (2) interesting events occurring at the Commission regardless of formal actions being taken, (3) important items of litigation, and (4) a schedule for the upcoming weeks. Users may also subscribe to the FECMail service to receive alerts through e-mail when new press releases are posted. The Commission seeks comment on ways in which the media page of its Web site and the press release subscriber service can be improved.

The Commission seeks comment on all of these educational materials. Are these materials useful and, specifically, are they useful for members of the general public? If not, how can the Commission make the materials more useful? Are these materials updated in a timely manner? Should these materials cover additional topics that would help the general public better understand the campaign finance laws and the role of the Commission?

Should the Commission create educational materials unique to its Web site? For instance, the Commission is developing e-learning content for its Web site, including instructional videos and interactive presentations intended to supplement the FEC's existing educational materials. By offering this content on the Commission's Web site and via YouTube, the Commission hopes to expand access to its educational materials and thereby increase compliance with Federal campaign finance laws. The Commission seeks comment on what topics would be most useful for its e-learning materials and what is the best way to make these materials available to the public.

Additionally, the Commission seeks comment on whether the Commission should create other interactive materials that would permit the public to submit questions through its Web site, for example, using live chat. Should the Web site host a chat room for viewers to engage each other on issues related to

the FEC and campaign finance? The Commission also seeks comment on whether it should provide other types of educational materials. For example, the Commission currently sends a weekly "Tip for Treasurers" to subscribers through an RSS (Really Simple Syndication) feed. Should the Commission make available additional RSS feeds? Should the Commission post answers to questions submitted by the public through its Web site?

Additionally, the Commission seeks comment on whether it should proactively use social media in order to reach new audiences and engage the public? For example, should the Commission use Facebook, Wikipedia, Twitter or Second Life? Would the use of such social media assist the Commission in its educational outreach? If yes, how should the Commission use these social media?

XI. Educational Programs

The Commission sponsors a number of conferences each year, both in the Washington, DC area and around the country, where Commissioners and FEC staff conduct a variety of instructional workshops on campaign finance law. Each conference has programs that are tailored to a specific audience (e.g., House and Senate campaigns or corporations and their PACs). Typically, the Commission sponsors five of these conferences each year and the conferences often sell out well in advance. Should the Commission hold more conferences each year? Should the conferences be held in additional locations around the country? If so, where?

Should the Commission make audio or video recordings of these conferences available through its Web site? Would participation by conference attendees be affected by recording conferences? If the Commission records conferences, what technology should the Commission use? Should the Commission make available live streaming of the conferences? Should users be able to download the recordings from the Web site? Should users be able to order audio tapes, CD and DVD recordings? Should the Commission seek to provide Continuing Legal Education (CLE) credit for attorneys who attend these courses and for users who access the audio or video recordings of the programs? Should the Commission seek to provide Continuing Professional Education (CPE) credit for Certified Public Accountants (CPAs) who attend these courses or who access the audio or video recordings?

In addition to the conferences, should the Commission offer other teleconferences, PowerPoint presentations

or online courses or discussion forums? If so, what topics should be covered? How frequently should live programs be offered? After the live programs are over, should the Commission continue to make the materials from these programs available? If so, for what period of time should they remain available?

XII. Legal Research

a. Enforcement Query System

Materials related to closed enforcement cases including Matters Under Review (MURs), which is the formal name for a matter under Commission investigation, and closed Alternative Dispute Resolution (ADR) cases are available on the FEC's Web site at the tab entitled Enforcement Query System (EQS). See <http://eqs.nictusa.com/eqs/searcheqs>. Through EQS, Web site visitors may access the Commission's enforcement documents, including complaints, responses, conciliation agreements and Commissioner statements of reasons, using key words or phrases or by basic information about these cases (e.g., by name of complainant or respondent, or by case number). Users can also search cases by the type of violation alleged to have occurred. The Commission seeks comment on whether the query choices are sufficiently robust. Do users find it easy to search closed enforcement cases by the type of violation alleged to have occurred? If not, in what ways can EQS be improved to facilitate these types of searches? Is it easy to search by both the type of violation alleged to have occurred and the legal citation? Are the search results accurate? If not, what are the inaccuracies?

Once a user has located a specific MUR or ADR case through a query of EQS, the system currently does not allow the user to then share direct access to all the documents associated with that particular MUR or ADR case with another user through a specified Uniform Resource Locator (URL) or hyperlink. Rather, users must be instructed to go to the EQS query page where the user would then run a new query using the MUR or ADR case number in order to access the relevant documents. Should EQS provide a function that would allow users to link directly to a specific MUR and ADR case? If so, what would be the best way for EQS to provide such a function?

The Commission was constituted in 1975 and closed its first MUR in January 1976. At the present time, MURs that closed after January 1, 1999 are available on EQS. MURs from 1976 to 1998 are presently available only on

microfilm at the Commission's Public Disclosure Room in Washington, DC. However, the Commission is in the process of digitizing the microfilm in order to make documents from all closed MURs available online. Are there any particular ways the Commission can make online access to these newly added MURs more user-friendly? For instance, the Commission intends to use optical character recognition to ensure these documents are text searchable. Are there other ways EQS can be improved?

The EQS system does not currently contain any information regarding the Commission's Administrative Fines program. The Administrative Fines program covers violations of FECA section 434(a), 2 U.S.C. 434(a), by committees that file their disclosure forms late, or do not file at all. See 11 CFR Part 111, Subpart B. Should the Commission include on the EQS system documents related to the Administrative Fines program? Would including Administrative Fines documents in EQS assist political committees in fulfilling their reporting responsibilities under the Act?

b. Advisory Opinion Search Engine

The Commission's Web site currently allows searches of advisory opinions (AOs) from 1975 to the present, including searches of certain documents associated with all AOs issued by the Commission since 1999, such as requests, public comments, and concurring and dissenting opinions. Links to all of these related documents are available for AOs issued since 1999. Would it be helpful if the Commission were to include documents related to AOs issued prior to 1999? The Commission has recently completed an upgrade of the AO search system, resulting in enhanced search functionalities and flexibility in displaying and sorting search results, as well as improved navigability, and new features, such as the ability to display all search hits in results and an option to display PDF documents full-screen.

The Commission seeks comment on the recently upgraded AO Search Engine and whether the expanded AO query choices are sufficiently robust. Are results accurate? Do they clearly and accurately reflect when an AO has been superseded by a change in the law or by a subsequent AO? In what ways can the Web site's AO search capabilities be improved? Should the documents in the AO search database include annotations?

c. Litigation Documents

The Commission brings enforcement suits in U.S. District Courts when matters are not satisfactorily resolved through the administrative enforcement process and sues to enforce administrative subpoenas. The FEC is also involved in defending lawsuits, which generally fall into the following three categories: (1) Lawsuits contesting the Commission's dismissals of administrative complaints under 2 U.S.C. 437g(a)(8); (2) petitions seeking review of Commission decisions regarding the Presidential public funding program; and (3) civil suits challenging the constitutionality of provisions of the FECA and the validity of the Commission's regulations. Materials related to litigation are currently available on the Commission's Web site and are divided into four sections. The section entitled "Selected Recent and Ongoing Litigation" provides links to materials related to recent litigation involving the FEC. "Major Campaign Finance Court Decisions" identifies key court decisions relating to the campaign finance law and provides links to materials related to those decisions. There is also an "Alphabetical Index of FEC Court Cases" that lists pending and past FEC cases alphabetically with links to summaries and, for some cases, to court opinions and other documents, such as the filed briefs. Finally, the Web site includes a "Subject Index for FEC Court Cases" that lists pending and past FEC cases by subject matter with links to summaries and, for some cases, to court opinions and other documents.

The Commission seeks comment on whether the information is sufficiently complete and user-friendly. Are there pleadings, orders and court opinions that impact the Commission, the FECA, and the public, that are not found on the Web site? For example, the Web site currently contains only pleadings that were filed by the FEC or by parties aligned with the FEC. Should the Web site also provide access to pleadings filed by opposing parties? Are the documents timely posted and adequately indexed? Are the documents easy to locate and search? Should the Web site contain summaries of cases and opinions? Should the Web site contain links to the court opinions for every pending and past case?

d. Rules, Statutes and Policy Statements

The FEC promulgates rules (also known as regulations) that implement the FECA and other statutes. The Commission's Web site currently provides access to the Commission's

regulations, as well as a variety of legal resources, including the text of the FECA and other relevant statutes. See <http://www.fec.gov/law/cfr/cfr.shtml>; <http://www.fec.gov/law/feca/feca.shtml>.

Currently, a compilation of all the Commission's rules is available in a single PDF file on the Web site at http://www.fec.gov/law/cfr/cfr_2009.pdf. The Web site also provides a link to the Government Printing Office's (GPO) Web site where a user can access each rule individually, both in PDF and text formats. See http://www.access.gpo.gov/nara/cfr/waisidx_09/11cfrv1_09.html. Are the Commission's rules easy to find? Can the Commission's rules be printed easily? What improvements can the Commission make in making its regulations available and accessible to the public?

Whenever the Commission promulgates a new regulation it also adopts an Explanation and Justification (E&J) providing detailed information about the new rule. All of the Commission's E&Js are available on the Web site at <http://www.fec.gov/law/cfr/cfr.shtml> and are organized both by citation (by Part, rule number, and title) and chronologically (by date of adoption). Are the E&Js organized in a useful way? If not, how should they be organized? Should they be organized by related subject matter? Are the E&Js easy to locate? Once located, are they easily searched?

Similarly, is the text of the FECA and other relevant statutes easy to find on, and print from, the Commission's Web site? The FECA is often amended through the passage of other statutes such as, most recently, the Honest Leadership and Open Government Act of 2007 (HLOGA), Public Law 110–81, 121 Stat. 735 (2007). Are these statutory amendments to the FECA easy to find? If not, how can the Commission make them more accessible? Should the Commission provide annotated versions of its rules and of the FECA that discuss court interpretation or promulgation history, or cross-reference Advisory Opinions, enforcement matters and litigation?

The Commission also makes its policy statements available on the Web site at <http://www.fec.gov/law/policy.shtml>. The policy statements address such issues as (1) Best Efforts to Collect Contributor Information, (2) Self Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), and (3) Safe Harbor for Misreporting Due to Embezzlement. Are the policy statements organized in a useful way? If not, in what other way should they be organized?

e. Rulemakings

Documents relating to recent (starting from 2007) and ongoing FEC rulemakings are listed by topic in reverse chronological order on the Commission's Web site, with new rulemakings added to the top of the list. See http://www.fec.gov/law/law_rulemakings.shtml. Documents related to older rulemakings (1999–2006) are also available on a Rulemakings Archive page at <http://www.fec.gov/law/RulemakingArchive.shtml>. Are the Commission's rulemakings easy to find? Is the information related to each rulemaking organized in a useful way? If not, how should they be organized? Should the Rulemakings Archive page include proceedings from prior to 1999? Is there additional information related to Commission rulemakings that would be useful to include on the Web site?

XIII. Electronic Filing of Disclosure Reports

Since 2001, almost all political committees have been required to file reports and statements electronically with the Commission (the requirement to file electronically does not currently apply to Senate candidate committees). Political committees generally must file all reports and statements electronically if their total contributions or total expenditures exceed, or are expected to exceed, \$50,000 in a calendar year. See 11 CFR 104.18. The Commission seeks comment on whether the Commission's electronic filing system is easy to use, particularly for first-time users. The Commission seeks comment on ways in which the Commission's electronic filing system can be improved, such as whether the Commission's electronic filing software, FECFile (*available at http://www.fec.gov/electfil/FECFileIntroPage.shtml*), is sufficiently user-friendly and whether the Commission has provided sufficiently clear instructions to help filers use the software.

FECFile is the Commission's electronic report filing software application designed to run on Windows platforms that enables filers to record and track information required for reporting to the Commission and to securely submit these data to the Commission electronically. Have filers been able to use the FECFile software on computers with the latest Windows operating systems such as 64-bit Vista? Should FECFile be modified to also operate on a MAC platform? The Commission is aware that several commercial vendors also offer other software packages that political

committees can use to record and track financial information that can then be reported to the Commission. See <http://www.fec.gov/electfil/software.shtml>. The Commission seeks comment on ways in which FECFile can be improved. What functions are not available through the use of FECFile that are available through commercial software packages (e.g., drop-down windows that would offer a choice of acceptable descriptions of purpose for particular reported disbursements)? Should FECFile be modified to include those functions? Is FECFile as flexible, intuitive and helpful as commercially available software packages? If not, in what ways is it less flexible, intuitive or helpful?

In order to file electronic disclosure reports using FECFile, a user must obtain a password (whether for the first time or as a replacement of an old password) by faxing or mailing a request letter to the Commission. If the request letter is sent on behalf of a political committee, the letter must be signed by the committee's treasurer. A member of the Commission staff then calls the requester and provides a password over the phone. Should the Commission allow users to request a first-time password electronically through the Web site? Should users also be able to electronically change their passwords, or create new ones when an old password is forgotten? If yes, what security measures should the Commission put in place to ensure that passwords are only provided to authorized persons?

The Commission has not made public the source code for the FECFile software package. If the Commission made the source code for FECFile public, this would allow others to develop modifications to the software on their own. Would this be useful? If so, how?

Generally, the Commission seeks comment on whether providing FECFile software to filers is the best approach to facilitate the electronic filing process. Are there alternative approaches that would better serve this function, such as using instead a Web-based report filing system that would not require reporting committees to use separate specialized software?

With respect to the existing FECFile software package, can novice users easily input the required information? If not, what types of common problems do users encounter? User manuals, Frequently Asked Questions (FAQs), and other documents to assist FECFile users are available on the Commission's Web site at <http://www.fec.gov/support/index.shtml>. Are these materials sufficiently helpful to FECFile users? In

what ways can the materials be improved? Should focused guidance be available for each data entry space and should the guidance be accessible by clicking in or near that data entry space? If there are problems that FECFile users are unable to resolve, does the Commission provide adequate technical support? If not, what are the current deficiencies and how can these be addressed?

Additionally, because it is common for electronically filed disclosure reports to contain missing, incomplete or even inconsistent data, the Commission's staff is often required to reconcile the data before it can be useful to the public. The Commission invites suggestions on ways in which the Commission might be able to mitigate the work currently required by Commission staff to reconcile the data. For example, should the Commission's electronic filing system automatically prevent filers from submitting reports with missing, incomplete or inconsistent data and at the same time inform the filer of the deficiency and suggest ways in which the report can be corrected thereby allowing the filer to know in advance that there is a problem and provide information about possible solutions?

The Commission currently makes available a set of programming tools, including electronic filing specifications requirements and validation software, for vendors to use in developing their own commercial software packages. Are these tools useful? How can they be improved? Should the Commission employ a more rigorous certification standard for commercial software? Are new or more rigorous software standards for commercial software packages advisable to prevent filing of reports with missing, incomplete or inconsistent data, or do current standards need to be better enforced? How can the Commission ensure that changes do not unfairly burden candidates, especially less well-funded challengers?

XIV. Electronic Filing of Other Documents

The Commission interacts with the public, the media, political committees, and other entities through a variety of means. The above-described electronic filing system, which resulted in improvements to the Commission's filing procedures, is one such means. The Commission seeks comments on whether the use of electronic "portals" for filing purposes could improve the Commission's procedures in other areas.

For instance, in rulemaking proceedings, although the Commission

currently allows comments on proposed rules to be submitted by e-mail, should the Commission allow electronic filing of petitions for rulemaking and for comments in rulemaking proceedings through its Web site? If so, should the Commission move to an entirely online system for filing of petitions for rulemaking and for comments in rulemaking proceedings, such that paper versions of comments and rulemaking petitions submitted by the public would no longer be accepted?

Similarly, should the Commission implement a system for electronic filing of advisory opinion requests? Should the Commission also implement a web-based electronic filing system for commenting on advisory opinion requests and draft advisory opinions, whereby comments could be filed directly through the Commission's Web site either by entering text on the Web site or by uploading a file? If so, should the Commission mandate the electronic submission of all documents submitted by members of the public in connection with advisory opinions, such as advisory opinion requests, comments on advisory opinion requests, and comments on draft advisory opinions?

The Commission's Web site currently provides information to the public regarding the procedures for filing a complaint with the Commission. At the present time, however, all complaints must be submitted on paper by mail or in person. Respondents are provided with notices of complaints pursuant to the provisions of the Act, but currently all responses also are submitted by hard copy. The Commission seeks comments on whether it should accommodate electronic filing of complaints and responses. Should the Commission allow electronic filing of complaints and responses to substitute for paper copies? Rather than allowing for permissive electronic filing, should the Commission mandate electronic filing for complaints and responses? Given that FECA requires that all complaints be signed and sworn by the person filing the complaint, would an electronic signature, or even the use of a user account and password, satisfy this statutory requirement? When the Commission communicates with respondents, such as sending notifications of reason-to-believe or subpoenas for documents, should the respondent be encouraged to submit answers and documents by e-mail or, alternatively, through a web-based submission form? Also, should the Commission accept conciliation agreements that contain an electronic signature by electronic means?

XV. Commission Meetings

Audio recordings of public Commission meetings are generally available on the Commission's Web site within 48 hours after a meeting. See <http://www.fec.gov/audio/audio.shtml>. The Commission currently does not create video recordings of its public meetings. The audio recordings are available in an MP3 file format, which can be played through a user's preferred software such as Windows Media Player, Real Player, or QuickTime. The Commission also makes these audio recordings available as podcasts, which are automatically sent to a user once a user signs up for the podcasts on the Commission's Web site. The URL for the Commission's podcasts is http://www.fec.gov/audio/fec_audio.xml.

The Commission seeks comment on whether these audio recordings are useful. Should they be made available in different formats? If so, which formats? Should the Commission make live audio streaming of its meetings available as well?

Should the Commission make available video recordings of its meetings? If so, should a live stream of the video be made available or is a recording sufficient? What technology should the Commission use to provide access to video streaming of its meetings?

In addition to audio and video recordings, should the Commission make available written transcripts of its open meetings? If yes, would it be appropriate for the Commission to charge for access to such transcripts?

XVI. Technical Issues

a. Software and Operating Systems

The Commission seeks comment on a number of technical issues relating to its Web site, including URL naming conventions, the use of metadata, Web site accessibility, formatting, and hardware.

The Commission uses a number of URL naming conventions in designating names for the pages on its Web site. For example, the Commission uses lower case letters and has set a number of directories related to major categories of information available on the Web site. The Commission seeks comment on whether it is using appropriate URL naming conventions for the pages on its Web site.

The Commission also seeks comment on other aspects of data receipt and presentation. For example, what metadata standards should the FEC use and why? The Commission also seeks comment on how easily its Web site can be accessed by the public. Is the

Commission's Web site accessible using different web browsers, such as Internet Explorer, Mozilla Firefox, Safari or Google Chrome? Also, is the Commission's Web site accessible using different operating systems and at different connection speeds? Is the Commission's Web site accessible using recently released versions of operating systems such as 64-bit Vista? What can the Commission do to ensure that its Web site remains accessible as new technology becomes available?

b. Hardware

The Commission also seeks comment on the type of computer hardware the Commission uses to support its Web site. The Commission currently uses load-balanced Sun Fire servers running Solaris 10 with Webserver Apache. Are these servers the best hardware for a Web site such as the FEC's? If not, why not and what kind would serve the public better? What innovations or advancements are anticipated in the near future? In what ways can the FEC plan for such advancements?

c. File Formatting

The Commission also seeks comment on its Web site formatting and printability. The Commission currently uses Adobe Dreamweaver for Web site development. Is Dreamweaver the best software available for development of a Web site such as the FEC's? If not, why not and what software would serve the public better now and in the future?

Are the Commission's Web site pages formatted properly to allow for easy printing? Should the Commission employ a "printer friendly" function on its Web site? If so, on which pages?

The Commission also seeks comment on whether documents are made available in formats that are easy to access, such as HTML (Hyper Text Markup Language), XML (Extensible Markup Language), Microsoft Word or PDF. For example, are there adequate links to the downloadable free PDF viewer provided? Is page download time for PDF documents quick enough, especially for scanned documents? Finally, should large documents be made available for viewing and printing by smaller sections or chapters?

XVII. Maintenance of Content

The Commission updates its Web site on a daily basis by adding new information, updating old information and removing obsolete information. Examples of these changes include guidance about new statutes and regulations. The Commission seeks comment about whether information is added, updated and deleted in a timely

manner. If not, what would be a reasonable time period within which information should be added, updated or deleted? Is the information on the FEC's Web site current? Are users easily able to see whether a page is current? For example, should each page on the Commission's Web site provide information about the "date posted" or "last reviewed" to allow viewers to assess whether the information is current? Should the Commission maintain archived versions of the Web site so that users can access information that was available in the past? If so, how should the Commission make archived versions of the Web site accessible?

When new information is added to a Web site it is important to ensure that the new information is not duplicative, or worse yet, contradictory to information that is already available. Additionally, it is vital that links are updated to ensure that viewers can access the information they seek. The Commission seeks comment on whether its Web site contains contradictory or erroneous content. Are links on the Commission's Web site maintained properly?

The Commission also seeks comment on whether, and if so, how often, it should conduct a content review of the entire Web site to ensure that online content is accurate, relevant, mission-related and written in plain language.

XVIII. Privacy Policy

Federal agencies are under an obligation to protect the privacy of the American people when they interact with their government. Accordingly, agencies are required to have clear privacy policies and to post those policies on their Web sites. The FEC's privacy policy is available at <http://www.fec.gov/privacy.shtml>. The Commission seeks comment on whether its privacy policy is appropriate and adequate.

XIX. Implementation of Changes

After the Commission reviews the written comments filed in response to this notice, as well as the testimony from witnesses at the hearing, the Commission will consider implementing improvements to the ways in which the Commission uses the Internet to disclose information to the public, including changes to the Commission's Web site. Once the Commission implements such changes, what is the most effective way for the Commission to inform the public about those changes? For example, should the Commission provide a link on the homepage to a guide regarding changes? Should the Commission issue a press

release? Are there other ways the Commission should inform the public once the Web site is updated?

XX. Customer Satisfaction & Future Improvements

The Commission currently receives comments and suggestions regarding its Web site through e-mails sent to the Commission's Web Manager (Webmanager@fec.gov). Currently, the Commission has no other method of measuring the usability of its Web site or customer satisfaction. Thus, the Commission seeks suggestions on ways in which the Commission could measure usability and customer satisfaction. For example, should the Commission conduct focus groups? Should the Commission conduct online surveys? Should the Web site host blogs in which users could provide feedback? Should these blogs be made available to the public? Are there any privacy concerns that the Commission should be aware of that are associated with conducting online surveys?

Going forward, the Commission seeks comment on how it may most effectively review and make further Web site improvements. Also, the Commission seeks comment on the most effective way to solicit and receive further feedback and suggestions. Is the Commission's use of the Webmaster e-mail address sufficient? Should the Commission proactively solicit additional feedback from the public? Finally, the Commission seeks comment on whether it should post user comments and suggestions on the Commission's Web site. If so, should the Commission also post actions taken by the Commission in response to such comments and suggestions?

XXI. Recommended Resources

Are there private resources such as research centers, academic institutions, or technical experts and consultants, available that the Commission might not be aware of that could assist the Commission in implementing improvements to the ways in which the Commission discloses information to the public and improvements to its Web site in the most expeditious and efficient manner possible? If so, what are those resources and how can the Commission access them? Are those resources available from commercial entities or non-profit organizations? Are there other government agencies that maintain Web sites that the Commission should try to emulate? If so, which agencies and why?

Dated: March 25, 2009.

Steven T. Walther,

Chairman, Federal Election Commission.

Editorial Note: This document was received in the Office of the Federal Register on Thursday, June 25, 2009.

[FR Doc. E9-15497 Filed 6-30-09; 8:45 am]

BILLING CODE 6715-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Acting Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

Report title: Suspicious Activity Report by Depository Institutions (SAR).

Agency form number: FR 2230.

OMB Control number: 7100-0212.

Frequency: On occasion.

Reporters: State member banks, bank holding companies and their nonbank subsidiaries, Edge and agreement

corporations, and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Federal Reserve.

Annual reporting hours: 86,404 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 7,000.

General description of report: This information collection is mandatory, pursuant to authority contained in the following statutes: 12 U.S.C. 248(a)(1), 625, 1818, 1844(c), 3105(c)(2), and 3106(a). The obligation to file a SAR is set forth in the Board's rules, and is mandatory: 12 CFR 208.62(c) (state member banks); 12 CFR 225.4(f) (entities subject to the Bank Holding Company Act and their nonbank subsidiaries); 12 CFR 211.5(k) (Edge and agreement corporations); and 12 CFR 211.24(f) (U.S. branches, agencies, and representative offices of foreign banks).

Section 5318(g)(2)(A)(ii) of Title 31 generally prohibits an officer or employee of the Federal Government from disclosing the existence of a SAR to anyone involved in the transaction, and section 5319 of Title 31 provides that SARs are exempt from disclosure under FOIA. The information collected on a SAR is covered by, among other things, exemptions 3 and 7 of the Freedom of Information Act (5 U.S.C. 552(b)(3)&(7)) and exemption 2 of the Privacy Act (5 U.S.C. 552a(k)(2)).

Abstract: Since 1996, the federal banking agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration) and the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) (collectively, the agencies) have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file SARs. Law enforcement agencies use the information submitted on the reporting form to initiate investigations and the Federal Reserve uses the information in the examination and oversight of supervised institutions.

Current Actions: On April 1, 2009, the agencies published a notice in the **Federal Register** (74 FR 14863) requesting public comment for 60 days on the extension, without revision, of the interagency Suspicious Activities Report by Depository Institutions. The comment period for this notice expired on June 1, 2009. The Federal Reserve did not receive any comments on this proposal. However, three comment

letters were received by FinCEN. Two of the comment letters were from banking institutions and one was from a credit union association. The other agencies will publish a separate **Federal Register** notice addressing the comments and each agency will separately submit their SAR information collection to OMB.

Board of Governors of the Federal Reserve System, June 25, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9-15479 Filed 6-30-09; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application 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 27, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offerbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

Cache Holdings, Inc., Tulsa, Oklahoma, to become a bank holding company through the acquisition of 100 percent of the voting shares of Healthcare Bancorp, Inc., parent of First BankCentre, both in Broken Arrow, Oklahoma.

Board of Governors of the Federal Reserve System, June 26, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9-15510 Filed 6-30-09; 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.: 011275-028.

Title: Australia and New Zealand/United States Discussion Agreement.

Parties: ANL Singapore PTE LTD.; Hamburg-Südamerikanische Dampfschiffahrts-Gesellschaft KG; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment reduces the minimum service levels to be provided under the agreement.

Agreement No.: 011426-043.

Title: West Coast of South America Discussion Agreement.

Parties: APL Co. Pte Ltd.; Compania Chilena de Navigacion Interoceanica, S.A.; Compania Sud Americana de Vapores, S.A.; Frontier Liner Services, Inc.; Hamburg-Süd; King Ocean Services Limited, Inc.; Maruba S.C.A.; Seaboard Marine Ltd.; South Pacific Shipping Company, Ltd.; and Trinity Shipping Line.

Filing Party: Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment would add Mediterranean Shipping Company, SA as a party to the agreement.

Agreement No.: 011960-004.

Title: The New World Alliance Agreement.

Parties: American President Lines, Ltd.; APL Co. Pte, Ltd.; Hyundai

Merchant Marine Co., Ltd.; and Mitsui O.S.K. Lines, Ltd. ("MOL").

Filing Party: Eric C. Jeffrey, Esq., Counsel for APL, Goodwin Procter LLP, 901 New York Avenue, NW., Washington, DC 20001.

Synopsis: The amendment would authorize APL to charter space to Hanjin in the trade between the Far East and the U.S. East Coast via Suez Canal.

Agreement No.: 012071.

Title: APL/Hanjin Reciprocal Space Charter Agreement.

Parties: American President Lines, Ltd.; APL Co. Pte, Ltd.; and Hanjin Shipping Co., Ltd.

Filing Party: Eric C. Jeffrey, Esq., Counsel for APL, Goodwin Procter LLP, 901 New York Avenue, NW., Washington, DC 20001.

Synopsis: The agreement would authorize APL to charter space to Hanjin in the trade between the Far East and the United States East Coast via Suez Canal, and authorizes Hanjin to charter space to APL in the trade between the Indian Subcontinent, Middle East and Far East and United States East Coast via the Panama Canal.

By Order of the Federal Maritime Commission.

Dated: June 26, 2009.

Karen V. Gregory,
Secretary.

[FR Doc. E9-15593 Filed 6-30-09; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL TRADE COMMISSION

[File No. 092 3035]

Constellation Brands, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 10, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Constellation Brands, File No. 092 3035" to facilitate the organization of comments. Please

note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtm>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . ." as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).¹

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<https://secure.commentworks.com/ftc-ConstellationBrands>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<https://secure.commentworks.com/ftc-ConstellationBrands>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it. You may also visit the FTC website at <http://www.ftc.gov/> to read the Notice and the news release describing it.

A comment filed in paper form should include the "Constellation Brands, File No. 092 3035" reference both in the text and on the envelope,

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

FOR FURTHER INFORMATION CONTACT:

Janet Evans, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-3112.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 10, 2009), on the World Wide Web, at (<http://www.ftc.gov/os/actions.shtml>). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from Constellation Brands, Inc. ("the company"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged unsubstantiated claims made in advertising for the beverage alcohol product Wide Eye schnapps, introduced by the company in 2007. Wide Eye contains 30% alcohol by volume plus caffeine. The company promoted Wide Eye through Internet advertising, including web video and print ads. Among other things, the company made the following claims about Wide Eye: "Wake up @ WideEye.com," "I am your wake up call," "Wakes up sweet, then goes off like an alarm," and "When you party with the world's first caffeinated schnapps it'll seem like the rest of the world is sleepwalking through life."

According to the FTC complaint, the company represented, expressly or by implication, that consumers who drink Wide Eye will remain alert when consuming alcohol. The complaint alleges that the company did not possess and rely upon a reasonable basis that substantiated the representation at the time it was made. Therefore, the representation was, and is, false and misleading.

The proposed consent order contains provisions designed to prevent the company from engaging in similar acts and practices in the future. Part I of the proposed consent order prohibits the company, in connection with the advertising, sale, or distribution of Wide Eye or any other beverage alcohol product containing caffeine, ginseng, taurine, guarana, or any stimulant, from representing, expressly or by implication, including through the use of a product name or endorsement, that consumers who drink such a product

will remain alert when consuming alcohol unless that representation is true, non-misleading, and, at the time it is made, the company possesses and relies upon competent and reliable scientific evidence that substantiates the representation. Part II of the consent order further prevents the company from representing, expressly or by implication, including through the use of a product name or endorsement, that any beverage alcohol product or any ingredient therein will counteract the effects of alcohol consumption, unless that representation is true, non-misleading, and, at the time it is made, the company possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Parts III through VI of the consent order require the company to keep copies of relevant advertisements and promotional materials, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file compliance reports with the Commission. Part VII provides that the order will terminate after twenty (20) years with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9-15462 Filed 6-30-09; 8:45 am]

BILLING CODE 6750-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Standards Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on standards, implementation

specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The meeting will be held on July 21, 2009, from 9 a.m. to 3 p.m./ Eastern Time.

Location: The Holiday Inn Washington Capitol, 550 C Street, SW., Washington, DC. The hotel telephone number is 202-479-9400.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202-205-4528, Fax: 202-690-6079, e-mail:

judy.sparrow@hhs.gov. Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will discuss the certification process. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at <http://healthit.hhs.gov>.

Procedure: Interested persons may present date, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 13, 2009. Oral comments from the public will be scheduled between approximately 2:30 p.m. to 3 p.m. Time allotted for each presentation may be limited. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <http://healthit.hhs.gov> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. No. 92-463, 5 U.S.C., App. 2).

Dated: June 26, 2009.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E9-15544 Filed 6-30-09; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Policy Committee's Certification/Adoption Workgroup Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming subcommittee meeting of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee's Certification/Adoption Workgroup.

General Function of the Committee: to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed. The Certification/Adoption Workgroup is charged with making recommendations to the HIT Policy Committee on issues related to the adoption of certified electronic health records, that support meaningful use, including issues related to certification, health information extension centers and workforce training.

Date and Time: The meeting will be held on July 14, 2009, from 9 a.m. to 4 p.m./ Eastern Time, and July 15, 2009, from 9 a.m. to 10 a.m./Eastern Time.

Location: The Park Hyatt Washington Hotel, 24th and M Streets, NW., Washington, DC. The hotel telephone number is 202-789-1234. The meeting will be available via Web cast; visit <http://healthit.hhs.gov> for instructions on how to listen via telephone or Web.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202-205-4528, Fax: 202-690-6079, e-mail:

judy.sparrow@hhs.gov. Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will be hearing testimony from stakeholder groups, such as purchasers, vendors, and users, on the certification process. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at <http://healthit.hhs.gov>. The meeting will be available via webcast; visit

<http://healthit.hhs.gov> for instructions on how to listen via telephone or Web.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 6, 2009. Oral comments from the public will be scheduled between approximately 3 p.m. to 4 p.m. on Tuesday, and 10 and 10:15 a.m. on Wednesday. Time allotted for each presentation may be limited. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business on that day.

Persons attending Committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <http://healthit.hhs.gov> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. 2).

Dated: June 26, 2009.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E9-15547 Filed 6-30-09; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The meeting will be held on July 16, 2009, from 10 a.m. to 2 p.m./ Eastern Time.

Location: The Park Hyatt Washington Hotel, 24th and M Streets, NW., Washington, DC. The hotel telephone number is 202-789-1234.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202-205-4528, Fax: 202-690-6079, e-mail: judy.sparrow@hhs.gov. Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will discuss the preliminary draft definition of Meaningful Use. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at <http://healthit.hhs.gov>.

Procedure: Interested persons may present date, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 6, 2009. Oral comments from the public will be scheduled between approximately 1:30 p.m. to 2 p.m. Time allotted for each presentation may be limited. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <http://healthit.hhs.gov> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. No. 92-463, 5 U.S.C., App. 2).

Dated: June 26, 2009.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E9-15545 Filed 6-30-09; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Collection of Customer Service, Demographic, and Smoking/Tobacco Use Information From NCI Cancer Information Service (CIS) Clients (NCI)

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 1, 2009, (Vol. 74, No. 83, p. 20320) and allowed 60 days for public comment. One public comment was received on May 1, 2009 requesting a copy of the data collection plans. An e-mail response was sent on May 5, 2009, which included the Supporting Statements and the screenshots of the surveys. The purpose of this notice is to allow an additional 30 days for public

comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Collection of Customer Service, Demographic, and Smoking/Tobacco Use Information from NCI Cancer Information Service (CIS) Clients (NCI) *Type of Information Collection Request:* Revision. *Need and Use of Information Collection:* The National Cancer Institute's Cancer Information Service (CIS) provides the latest information on cancer, clinical trials, and tobacco cessation in English and Spanish. Clients are served by calling 1-800-4-CANCER for cancer information; 1-877-44U-QUIT for smoking cessation services; and using the NCI's LiveHelp, a web-based chat service. CIS currently conducts a brief survey of a sample of telephone and LiveHelp clients at the end of usual service—a survey that includes three customer service and twelve demographic questions (age, sex, race, ethnicity, education, household income, number in household, and five questions about health care/coverage). Characterizing clients and how they found out about the CIS is essential to customer service, program planning, and promotion. The NCI also conducts a survey of individuals using the CIS's smoking cessation services—a survey that includes 20 smoking/tobacco use "intake" questions that serve as a needs assessment that addresses smoking history, previous quit attempts, and motivations to quit smoking. An additional question is used with callers who want to receive proactive call-back services. Responses to these questions enable Information Specialists to provide effective individualized counseling. *Frequency of Response:* Once. *Affected Public:* Individuals or households. *Type of Respondents:* People with cancer; their relatives and friends; and general public, including smokers/tobacco users. Annualized estimates for numbers of respondents and respondent burden are presented in the table below.

Type of respondents	Survey instrument	Number of respondents	Frequency of responses	Average time per response (minutes/hour)	Annual burden hours
Telephone Clients ¹					
	Customer Service	62,000	1	1/60	1,033.33
	Demographic Questions	22,000	1	2/60	733.33

Type of respondents	Survey instrument	Number of respondents	Frequency of responses	Average time per response (minutes/hour)	Annual burden hours
Smoking Cessation "Quitline" Clients ^{1,2}					
Reactive Service Clients	Smoking Cessation "Intake" Questions	4,641	1	5/60	386.75
Proactive Callback Service Clients ³	Demographic Questions	1,300	1	2/60	43.33
	Follow-Up	928	4	1/60	61.87
LiveHelp Clients ⁴					
Total	Demographic questions	7,014	1	2/60	233.80
		97,883			2524.00

¹ Approximately 36% of telephone and quitline clients will be sampled for the demographic questions, and 100% of telephone clients will be sampled for the customer service questions. Estimates based on 77.5% response rate.

² 100% of smoking cessation clients will be asked the smoking intake questions. Estimates for quitline callers answering demographic questions are based on 77.8% response rate.

³ 100% of smoking cessation clients participating in the proactive callback service (about 20% of all smoking callers) will be asked the smoking follow-up question (at up to 4 callbacks).

⁴ Approximately 50% of LiveHelp clients will be sampled for the demographic questions.

The annualized cost to the respondents is estimated at \$48,752. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, at OIRA_submission@omb.eop.gov or by fax to 202-395-6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Mary Anne Bright, Office of Public Information and Resource Management, Office of Communications and Education, National Cancer Institute, 6116 Executive Blvd., Room 3049, MSC 8322, Bethesda, MD 20892-8322 or call

the non-toll-free number 301-594-9048 or e-mail your request, including your address, to: brightma@mail.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 23, 2009.

Vivian Horovitch-Kelley,
NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E9-15583 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville,

Maryland 20852-3804; *telephone:* 301/496-7057; *fax:* 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

New Inhibitors of Polo-like Kinase 1 (PLK1) as Anti-Cancer Agents

Description of Technology: Tumor formation is the result of uncontrolled cellular growth and invasion. Polo-like kinase 1 (PLK1) is a regulator of cell growth whose overexpression has been associated with several types of cancer (e.g., breast cancer, prostate cancer, ovarian cancer, non-small cell lung carcinoma). It has been shown that inhibition of PLK1 causes cell death (apoptosis) in tumor cells but not normal cells. This suggested that inhibiting PLK1 could be an effective treatment for cancer patients without causing unwanted side-effects.

PLK1 contains a unique protein domain known as the polo box domain (PBD), which is essential for its function. One strategy for inhibiting PLK1 involves preventing the PBD domain from interacting with PLK1 substrates. A synthetic peptide with the ability to selectively bind to the PBD was recently identified. Using this peptide as a platform, NIH inventors have designed peptide mimetics that interact with the PBD with greater affinity than the wild-type peptide. By inhibiting PLK1 and selectively inducing apoptosis in cancer cells, these mimetics could serve as potential anti-cancer therapies.

Applications:

- New anti-cancer therapies that specifically target PLK1
- Platform for the development of further improved PLK1 inhibitors

Advantages:

- The peptide mimetics have an increased affinity for the polo box domain of PLK1 compared to the wild-type peptide, making them superior as inhibitors of PLK1.

- The peptide mimetics provide greater metabolic stability and potential effectiveness over synthetic peptides prepared using coded amino acids.

- Inhibiting PLK1 provides an opportunity for successful treatment of cancer with fewer side effects because only tumor cells are killed.

Development Status: Preclinical stage of development

Inventors: Terrence R. Burke Jr. *et al.* (NCI)

Patent Status: US Provisional Application No. 61/178,593 (HHS Reference No. E-181-2009/0-US-01)

For more information, see:

1. F Liu *et al.* SAR by oxime-containing peptide libraries: application to Tsg101 ligand optimization. *Chembiochem.* 2008 Aug 11;9(12):2000-2004.

2. F Liu *et al.* Protected aminooxyprolines for expedited library synthesis: Application to Tsg101-directed proline-oxime containing peptides. *Bioorg Med Chem Lett.* 2008 Feb 1;18(3):1096-1101.

3. PCT Application WO 2004/046317, "Crystal structure of human Polo-like kinase Plk1, Polo Box domain-binding phosphopeptide core sequences, and their therapeutic uses for cancer."

Licensing Status: Available for licensing.

Licensing Contact: David A. Lambertson, PhD; 301-435-4632; lambertson@mail.nih.gov.

Increasing the Effectiveness of Cancer Treatment: T Cell Receptors Designed To Release Interleukin-12 Specifically at Cancer Sites

Description of Technology: Many conventional chemotherapy drugs currently utilized to treat cancer also yield harsh side effects in patients. In addition, many patients do not respond to generalized chemotherapy and radiation treatments for cancer. There is an urgent need to develop new therapeutic strategies combining fewer side-effects and more specific anti-tumor activity in individual patients. Adoptive immunotherapy is a promising new approach to cancer treatment that engineers an individual's innate and adaptive immune system to fight against specific diseases, including cancer.

T cell receptors (TCRs) are proteins that recognize antigens in the context of infected or transformed cells and activate T cells to mediate an immune response and destroy abnormal cells.

TCRs consist of two domains, one variable domain that recognizes the antigen and one constant region that helps the TCR anchor to the membrane and transmit recognition signals by interacting with other proteins. When a TCR is stimulated by an antigen, such as a tumor antigen, some signaling pathways activated in the cell lead to the production of cytokines, which mediate the immune response.

Scientists at the National Institutes of Health (NIH) have developed T cells genetically engineered to express the human interleukin 12 (IL-12) cytokine only in the tumor environment. Specifically, these T cells have been designed to express a human IL-12 gene under the control of the nuclear factor of activated T cells (NFAT) promoter. When the TCR on these T cells recognizes a tumor antigen, IL-12 expression is induced through activation of the NFAT promoter. Thus, IL-12 is only released at the cancer site and only after the activation of the T cell. This technology makes it possible to control the expression of IL-12 to enhance T cell cytolytic activity while also reducing or eliminating the IL-12 toxicity observed with other IL-12 related therapies. Infusing these IL-12 expressing T cells into patients via adoptive immunotherapy could prove to be powerful new tools for attacking tumors.

Applications:

- Immunotherapeutics to treat and/or prevent the recurrence of a variety of human cancers by adoptively transferring the gene-modified T cells into patients.

- A drug component of a combination immunotherapy regimen aimed at targeting the specific tumor-associated antigens expressed by cancer cells within individual patients.

Advantages: The combination of enhanced T cell activity with reduced IL-12 toxicity: IL-12 has shown remarkable properties as an anti-tumor agent, but its clinical development has been hindered by its toxicity. This current technology delivers IL-12 only when and where it is needed—at the tumor site.

Development Status: Clinical trials utilizing this technology are currently in the planning stage.

Market: Cancer continues to be a medical and financial burden on US public health. According to US estimates, cancer is the second leading cause of death with over 565,000 deaths reported in 2008 and almost 1.5 million new cases were reported (excluding some skin cancers) in 2008. In 2007, the NIH estimated that the overall cost of cancer was \$219.2 billion dollars and

\$89 billion went to direct medical costs. Despite our increasing knowledge of oncology and cancer treatment methods, the fight against cancer will continue to benefit from the development of new therapeutics aimed at treating individual patients.

Inventors: Richard A. Morgan *et al.* (NCI)

Publications:

1. L Zhang *et al.* Improving adoptive T cell therapy using NFAT driven human single chain IL-12 expression vector. 2009 American Society of Gene Therapy, abstract submitted.

2. B Heemsker *et al.* Adoptive cell therapy for patients with melanoma, using tumor-infiltrating lymphocytes genetically engineered to secrete interleukin-2. *Hum Gene Ther.* 2008 May;19(5):496-510.

3. RA Morgan *et al.* Cancer regression in patients after transfer of genetically engineered lymphocytes. *Science* 2006 Oct 6;314(5796):126-129.

Patent Status: U.S. Provisional Application No. 61/174,046 filed 30 Apr 2009 (HHS Reference No. E-170-2009/0-US-01)

Licensing Status: Available for licensing.

Licensing Contact: Samuel E. Bish, Ph.D.; 301-435-5282; bishse@mail.nih.gov.

Collaborative Research Opportunity: The National Cancer Institute, Surgery Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize adoptive immunotherapies or the development of cancer therapeutics based on the use of T cell receptors. Please contact John D. Hewes, PhD at 301-435-3121 or hewesj@mail.nih.gov for more information.

A Novel System for Producing Infectious Hepatitis C Virus (HCV) Virions and Development of a Novel Reporter System for Studying HCV Entry

Description of Technology: HCV has infected an estimated 3% of the world population in whom viral infection persists for more than two third of the cases, often resulting in life-threatening complications. The standard of care (pegylated interferon alpha-2 plus ribavirin) is efficient in only 50% of treated patients, costly and has numerous side effects. In addition, viral resistance to newly developed drugs—targeting viral protease or RNA polymerase—has been described, but no vaccine is yet available. The difficulty in developing HCV vaccines is largely due to the broad sequence-diversity

displayed by HCV, the frequent occurrence of viral mutations within immunogenic epitopes *in vivo*, and the lack of proper standard/definition for viral neutralization.

One alternative strategy in HCV-vaccine or drug development comprises measuring viral entry, the first step in viral infection. Such measurements are limited by the available screening systems, in that, HCV pseudo-typed retroviral particles have a different envelope conformation and contain foreign components that are likely to interfere with the measured HCV entry. Moreover, HCV lab strain requires intensive replication for its *in vitro* production, resulting in numerous mutations that impede development of convenient screening tools.

The inventors have developed a system for generating infectious HCV particles and HCV-like particles (HCV-LP) suitable for a qualitative single-cycle entry assay, completely independent of HCV replication. To adapt this system as a single assay to study HCV-LP entry, HCV non-structural genes were replaced with a heterologous gene that upon viral-entry triggers firefly luciferase and EGFP expressions in target as well as non-permissive cells. The pretreatment of HCV-replication permissive HuH-7.5 cells with siRNA targeting HCV candidate receptors inhibited viral entry. These new systems enable production of authentic HCV infectious particles as well as HCV-LPs suitable for single-cycle entry assays adaptable to high throughput screening.

Applications:

- Screening a library expressed in non-permissive cells for identifying new HCV candidate receptor(s) or entry molecule(s).

- Testing drugs or compounds inhibiting HCV particle entry or viral genome uncoating, or neutralizing antibodies in target cells.

- Testing drugs or compounds that inhibit virus assembly, maturation and/or egress, or genome packaging, in producer cells.

- Incorporating a 'tag' in the genome of various HCV genotypes to more conveniently study virus spreading and dissemination in an organ, tissue and/or small animal model.

- Enhancing immune response in patients: one way to trigger high level anti-HCV immunity is by isolating antigen-presenting cells from patients and incubating them with HCV particles produced with this system using replication-defective viral genome (with or without an immunogenic tag and/or in combination with other viral epitopes) and eventually re-inject their primed cells to the patients.

Advantages:

- These systems do not use pseudo-typed HCV particles, i.e. no foreign proteins present in the virus particles.

- Particle production in the producing cells is independent of HCV RNA replication, hence avoids the occurrence of adaptive mutations that could be detrimental for virus particle's infectivity or could alter tags or nucleotide sequences incorporated in the viral genome.

- These systems are not specifically dedicated to HCV of a particular genotype, i.e. they can be used to generate HCV particles of various genotypes without requiring the use of chimeras.

Development Status:

- Proof of concept.
- Preliminary tools and techniques for screening strategies.

Inventors: Bertrand Saunier, Miriam Triyatni, Edward A. Berger (all NIAID)

Patent Status: U.S. Provisional Application No. 61/195,088 filed 03 Oct 2008 (HHS Reference No. E-005-2009/0-US-01)

Licensing Status: Available for licensing.

Licensing Contact: RC Tang JD, LLM; 301-435-5031; tangrc@mail.nih.gov.

Collaborative Research Opportunity: The NIAID OTD is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize a novel system for producing infectious HCV virions and developing a reporter system for studying HCV entry. Please contact Michael Piziali at 301-496-2644 for more information.

Recombinant Virus-Like Particle (VLP) and DNA Vaccines for Chikungunya Virus (CHIKV) and Other Alphaviruses

Description of Technology: Available for licensing and commercial development are compositions and methods of use as vaccines of virus-like particles (VLPs) expressing one or more Alphavirus capsid and envelope proteins, and in particular Chikungunya virus (CHIKV) core and envelope proteins. The invention also describes DNA, viral or other gene-based vector and VLP vaccines, methods of making and methods of their use in inducing immunity, for example to CHIKV infection.

Alphaviruses are RNA-containing viruses that cause a wide variety of mosquito-transmitted diseases, including equine encephalitis. CHIKV, an Alphavirus in the family *Togaviridae*, was first isolated in Tanzania in 1952 and is transmitted to humans by mosquitoes. The disease

caused by CHIKV resembles infection by dengue virus, characterized by rash, high fever, and severe, sometimes persistent arthritis. By 2007, an estimated 1.4-6.5 million people in India, Southeast Asia, Africa and Europe had been infected. Vaccines or anti-viral therapies against CHIKV are not available, raising concerns about its continued evolution and spread in humans. There has been limited success to date in developing a safe and effective CHIKV vaccine. A live CHIKV vaccine candidate caused transient arthralgia in volunteers. Other efforts to develop a CHIKV vaccine include a live attenuated vaccine, a formalin-killed vaccine, a Venezuelan equine encephalitis/CHIKV chimeric live attenuated vaccine and a consensus-based DNA vaccine, but development of a safe and effective CHIKV vaccine will require additional evaluation in humans.

This invention provides CHIKV vaccines based on plasmid expression vectors encoding structural proteins of the virus, which gave rise to VLPs in transfected cells and also served as DNA vaccines. The VLPs consisted of the core, E1 and E2 proteins and were similar in buoyant density and morphology to replication-competent virus. To evaluate the potency and specificity of neutralizing antibodies, pseudotyped lentiviral vectors bearing the CHIKV glycoproteins E1/E2 were developed that showed pH-dependent entry and antibody inhibition similar to CHIKV. Mice were immunized with VLPs (West African strain, 37997) or with DNA vaccines encoding viral gene products from 37997 as well as the latest outbreak strain, OPY-1. Immunization with VLPs elicited high titer neutralizing antibodies against homologous and heterologous strain envelope at >100 fold higher titers than DNA vaccines. These vaccines also induced CD4 and CD8 T-cell responses by analysis with intracellular cytokine staining (ICS). These VLP vaccines are likely to confer protection against emerging CHIKV outbreaks and represent a strategy that could be applied to other pathogenic viruses to prevent their infection and spread.

Applications:

- Development of vaccines against CHIKV

- Development of vaccines against other Alphavirus

Advantages:

- Immunization of mice with VLPs plus adjuvant results in neutralizing antibodies against both homologous and heterologous strains with titers at least two orders of magnitude greater than immunization with a DNA vaccine.

- VLPs induce innate immunity responses as well as CD8 T-cell responses.

- VLPs closely resemble mature virions but they do not contain viral genomic material. Therefore, VLPs are non-replicative in nature, which make them safe for administration in the form of immunogenic compositions in vaccines.

Development Status: This technology is in the pre-clinical stage of development.

Inventors: Gary J. Nabel and Wataru Akahata (NIAID)

Patent Status: U.S. Provisional Application No. 61/201,118 filed 05 Dec 2008, entitled "Virus Like Particle Compositions and Methods of Use" (HHS Reference No. E-004-2009/0-US-01)

Licensing Status: Available for licensing.

Licensing Contact: Cristina Thalhammer-Reyero, PhD, MBA; 301-435-4507; thalhamc@mail.nih.gov.

Inflammatory Genes and MicroRNA-21 as Biomarkers for Colon Cancer Prognosis

Description of Technology: Colon adenocarcinoma is the leading cause of cancer mortality world-wide and accounts for approximately 50,000 deaths annually in the United States. Adjuvant therapies improve survival for stage III colon cancer patients; however, it remains controversial if stage II patients should be given these therapies. Some stage II patients will benefit from therapy (such as patients with undetectable micro-metastases where surgery will not be curative); but therapy for others will harm quality of life with little therapeutic benefit (such as patients where surgery removed all cancerous tissue and therefore do not need additional therapy). Thus, there is a need for biomarkers capable of accurately identifying high risk, stage II patients that are suitable for therapeutic intervention.

The investigators have identified an inflammatory gene and microRNA biomarker portfolio that can predict aggressive colon cancer, colon cancer patient survival, and patients that are candidates for adjuvant therapy. These biomarkers provide clinicians with a powerful tool to diagnose colon cancer patients and chose effective treatment methods.

Applications:

- Method to predict aggressive form of colon cancer, especially in stage II cancer patients
- Method to determine appropriate colon cancer patients for adjuvant therapy

- Diagnostic arrays

Advantages:

- Rapid, easy to use arrays to accurately predict colon cancer and patients suitable for adjuvant therapy

- Method to stratify colon cancer patients for adjuvant therapy to minimize negative side effects

- Method to identify stage II patients that are likely to have undetectable micro-metastases

Development Status: The technology is currently in the pre-clinical stage of development.

Market:

- Global cancer market is worth more than eight percent of total global pharmaceutical sales

- Cancer industry is predicted to expand to \$85.3 billion by 2010

Inventors: Curtis C. Harris and Aaron J. Schetter (NCI)

Relevant Publication: AJ Schetter *et al.* MicroRNA expression profiles associated with prognosis and therapeutic outcome in colon adenocarcinoma. JAMA. 2008 Jan 30;299(4):425-436.

Patent Status: U.S. Provisional Application No. 61/194,340 filed 25 Sep 2008 (HHS Reference No. E-314-2008/0-US-01)

Licensing Status: Available for licensing.

Licensing Contact: Jennifer Wong; 301-435-4633; wongje@mail.nih.gov.

Collaborative Research Opportunity: The NCI Laboratory of Human Carcinogenesis is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize cancer biomarkers and therapeutic targets. Please contact Curtis_Harris@nih.gov for more information.

Differentiation of Human Embryonic Stem Cells Into Dopaminergic Nerve Cells

Description of Technology: The invention described here is a novel method of differentiating human embryonic stem cells (hESCs) into dopaminergic nerve cells, which is preferable to the currently available dopaminergic differentiation techniques.

This invention potentially provides a source of sufficient dopaminergic cells not only for the clinical transplantation of dopaminergic tissue but also for in vitro studies of human cells useful for pharmaceutical screens related to neurodegenerative disorders and substance abuse.

Neurodegenerative disorders encompass a range of debilitating conditions including Parkinson's

disease, Alzheimer's disease, and Huntington's disease. The primary cause of cognitive dysfunction for these three disorders has been directly linked to neuron degeneration, usually in specific areas of the brain.

Transplantation of fetal dopaminergic neurons in affected areas of the brain in late stage Parkinson's disease has demonstrated clinical utility in human patients. However, fetal transplantation therapy generally requires human tissue from at least 3-5 embryos to obtain a clinically reliable improvement in the patient, thus demonstrating a need for a larger and more reliable source of dopaminergic cells. HESCs are a promising alternative source of cells because they can grow in culture indefinitely and have the ability to differentiate into a variety of cell types. One of the most efficient methods for conversion of hESCs to dopaminergic neurons requires the presence of mouse stromal cells which have an undefined dopaminergic inducing activity. However, the major disadvantage of this method is the exposure of hESC to mouse cells, which hinders any downstream clinical application due to possible transfer of animal cells and pathogens. This invention has unveiled the molecular nature of the activity of the mouse cells and established an efficient alternative approach for dopamine neuron generation, which is more suitable for clinical application. This innovative approach potentially provides a large and reliable source of dopaminergic cells sufficient for clinically relevant transplantation of dopaminergic tissue as well as in vitro pharmacologic studies of human dopaminergic cells.

Applications:

- Human dopaminergic cell source for neuronal transplantation, with potential clinical application to Parkinson's disease and possibly other neurodegenerative disorders.

- Human dopaminergic cell source for in vitro models for pharmaceutical screens relevant to neurodegenerative disorders and substance abuse.

Market: Parkinson's disease, the second most common neurological disorder, affects approximately 4.1 million people worldwide. In 2006, global sales of Parkinson's disease therapeutics were \$3.1 billion, with sales expected to exceed \$4.6 billion by 2012.

Development Status: Early stage.

Inventors: William Freed and Tandis Vazin (NIDA).

Publication: In preparation.

Patent Status: U.S. Provisional Application No. 61/199,652 filed 18

Nov 2008 (HHS Reference No. E-176-2008/0-US-01).

Licensing Status: Available for licensing.

Licensing Contact: Norbert Pontzer, J.D., PhD; 301-435-5502; pontzern@mail.nih.gov.

Collaborative Research Opportunity: The National Institute on Drug Abuse, Development and Plasticity Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Vio Conley, M.S. at 301-496-0477 or conleyv@mail.nih.gov for more information.

Dated: June 22, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9-15578 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 20, 2009, 8 a.m. to July 21, 2009, 7:30 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on June 15, 2009, 74 FR 28260-28262.

The meeting will be held at the Doubletree Hotel Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: June 22, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15580 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 20, 2009, 8 a.m. to July 21, 2009, 4 p.m.,

DoubleTree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on June 22, 2009, 74 FR 29500-29502.

The meeting will be held at the Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814. The meeting date and time remain the same. The meeting is closed to the public.

Dated: June 22, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15582 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 20, 2009, 8 a.m. to July 21, 2009, 6 p.m., Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC, 20037 which was published in the **Federal Register** on June 15, 2009, 74 FR 28260-28262.

The meeting will be held at the Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: June 22, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15588 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Research Project Grant, Cooperative Agreement and Competitive Supplement Applications.

Date: August 3, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Officer, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892-9300, (301) 451-2020, aes@nei.nih.gov.

Name of Committee: National Eye Institute Special Emphasis Panel NEI Translational Research Program on Therapy for Visual Disorders.

Date: August 4, 2009.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Officer, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, Md 20892-9300, (301) 451-2020, aes@nei.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 25, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15592 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Urology ARRA.

Date: July 23, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-8895, rushingp@extra.nidk.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: June 24 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15573 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Seeding Team

Science in Diabetes, Endocrinology, and Metabolic Diseases.

Date: July 31, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-4721, rw175w@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 24, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15572 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Integrated Pre-Clinical/Clinical Program for HIV Topical Microbicides (IPCP-HTM) (U19).

Date: July 29-30, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Betty Poon, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC

7616, Bethesda, MD 20892-7616, 301-402-6891, poonb@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 24, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15571 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Autoimmune Microbiome.

Date: August 11, 2009.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-4721, rw175w@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 24, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15569 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, RC2 Sequencing Technology.

Date: July 27, 2009.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Ken D. Nakamura, PhD, Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301-402-0838, nakamurk@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 24, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15568 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Center of Excellence in Public Health Informatics, Request for Application (RFA) HK-09-001

This meeting is for the initial review of applications.

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 aforementioned meeting.

Time and Date:

7 p.m.–9 p.m., July 22, 2009 (Closed).

8 a.m.–5 p.m., July 23, 2009 (Closed).

8 a.m.–5 p.m., July 23, 2009 (Closed).

Location: Emory Conference Center, 1615 Clifton Road, Atlanta, Georgia, 30329. Phone: (404) 712-6025.

Status: The meeting 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 Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to "Centers of Excellence in Public Health Informatics, RFA HK-09-001."

Contact Person for More Information:

Juliana K. Cyril, PhD, M.P.H., Associate Director, Office of Public Health Research, Office of the Chief Science Officer, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., mailstop E-78, Atlanta, GA 30333, Telephone: 404-639-4639, E-mail: jcyril@cdc.gov.

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 18, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9-15404 Filed 6-30-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflicts in Memory and Cognition.

Date: July 8, 2009.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892. 301-435-2309. pluded@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. SEP—Epidemiology Competitive Revisions.

Date: July 9, 2009.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Jose Fernando Arena, PhD, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301-435-1735. Arenajmail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 25, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15595 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Eating Disorders.

Date: July 22, 2009.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Serena P. Chu, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892-9609, 301-443-0004, sechu@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Individual Pre-Doctoral and Post-Doctoral Fellowships and Mental Health Dissertation Research Grants to Increase Diversity.

Date: July 28, 2009.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Serena P. Chu, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892-9609, 301-443-0004, sechu@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Clinical Pharmacotherapy for PTSD.

Date: July 29, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Serena P. Chu, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892-9609, 301-443-0004, sechu@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 22, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15590 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: July 13-14, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Palomar Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Shiv A. Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301-443-5779, prasads@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Competitive Revisions: Clinical Neuroplasticity and Neurotransmitters.

Date: July 16-17, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Suzan Nadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301-435-1259, nadis@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 CB P95 S: CSRS Competitive Revisions.

Date: July 16-17, 2009.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Elena Smirnova, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301-435-1236, smirnov@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA OD-09-003 Challenge Grants Panel 23.

Date: July 20-21, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892, 301-435-2598, firrellj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA OD-09-003: Challenge Grants Editorial Panel 3.

Date: July 20-21, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Katherine N. Bent, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435-0695, bentkn@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA OD-09-003 Challenge Grants Panel 4.

Date: July 20-21, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Joseph D. Mosca, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435-2344, moscajos@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA OD09-003 Challenge Grants Panel 12.

Date: July 20-21, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Joseph G. Rudolph, PhD, Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, 301-435-2212, josephru@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Challenge Grant Editorial Panel 17.

Date: July 20-21, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Calbert A. Laing, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, 301-435-1221, laingc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Challenge Grant Editorial Panel 26.

Date: July 20-21, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435-2309, pluded@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Challenge Grant Editorial Panel 8.

Date: July 20-21, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Michael M. Sveda, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301-435-3565, svedam@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-09-003: Challenge Grants Panel 5.

Date: July 20-21, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Nuria E. Assa-Munt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451-1323, assamunu@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA OD-09-003 MDCN Challenge Grants Panel 14.

Date: July 20-21, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435-1248, jelsemac@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Challenge Grant Editorial Panel 18.

Date: July 20-21, 2009.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301-435-1778, khanm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA OD-09-003: Challenge Grants Panel 21.

Date: July 20-21, 2009.

Time: 8:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301-435-1212, kumarra@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; MBPP Competitive Revisions.

Date: July 21-22, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Janet M. Larkin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301-435-1026, larkinja@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; DABP Research and Research Infrastructure GO Special Emphasis Panel.

Date: July 22-23, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Melinda Tinkle, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7770, Bethesda, MD 20892, (301) 594-6594, tinklem@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Kidney and Urology Small Business Applications Review.

Date: July 27-28, 2009.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Krystyna E. Rys-Sikora, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 781, Bethesda, MD 20892, 301-451-1325, ryssokok@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 23, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15586 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of RFA-OD-09-004 RC2 Grant Opportunity Applications.

Date: July 23, 2009.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jonathan Horsford, PhD, Scientific Review Officer, Natl Inst of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd, Room 664, Bethesda, MD 20892, 301-594-4859, horsforj@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 24, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15585 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Formative Children's Center Review.

Date: July 21-24, 2009.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, Ten Thomas Circle, NW., Washington, DC 20005.

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC-30, Research Triangle Park, NC 27709, (919) 541-1307, malone@niehs.nih.gov.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; ARRA Grand Opportunities on Bisphenol A Review Meeting.

Date: July 29-30, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Radisson Governor's Inn, I-40 at Davis Drive, Exit 280, Research Triangle Park, NC 27709.

Contact Person: Leroy Worth, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC-30/Room 3171, Research Triangle Park, NC 27709, (919) 541-0670, worth@niehs.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 24, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15581 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Mental Health Services In Non-Specialty Settings.

Date: July 6, 2009.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Aileen Schulte, PhD, Scientific Review Officer, Division of

Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6140, MSC 9608, Bethesda, MD 20892-9608, 301-443-1225, aschulte@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 23, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15579 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; RC2 Computational Analysis.

Date: July 23, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ken D. Nakamura, PhD, Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301-402-0838, nakamurk@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 22 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15575 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Obstetric Pharmacology Research Units.

Date: July 23, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892-7510, 301-435-6902, peter.zelazowski@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 22, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15574 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Neurological Sciences Training Initial Review Group; NST-2 Subcommittee.

Date: July 16-17, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Contact Person: JoAnn McConnell, PhD, Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496-5324, mcconnej@ninds.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 25, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15591 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 16, 2009, 9 a.m. to July 17, 2009, 6 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal**

Register on June 15, 2009, 74 FR 28260-28262.

The meeting times have been changed to 8 a.m. on July 16, 2009, to 4 p.m. on July 17, 2009. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: June 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15589 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 20, 2009, 8 a.m. to July 21, 2009, 5 p.m., Hotel Palomar, 2121 P Street, NW., Washington, DC 20037 which was published in the **Federal Register** on June 15, 2009, 74 FR 28260-28262.

The meeting will be held at the Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: June 23, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15587 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships in Language and Communication.

Date: July 6, 2009.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Chicago, 151 East Wacker Drive, Chicago, IL 60601.

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892. 301-435-2309. pluded@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 22, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-15584 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Pain Control by Selective Ablation of Pain-Sensing Neurons by Administration of Resiniferatoxin

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in PCT Patent Application PCT/US2001/09425 [HHS Ref. E-109-2000/0-PCT-01], US Patent Application 10/472,874 [HHS Ref. E-109-2000/0-US-02], both entitled "Molecular Neurochirurgie for Pain Control Administering Locally Capsaicin or Resiniferatoxin", and Canadian Patent Application 2442049 [HHS Ref. E-109-2000/0-CA-03] entitled "Selective Ablation of Pain-Sensing Neurons by Administration of a Vanilloid Receptor Agonist", and all continuing applications and foreign counterparts, to Sherrington Pharmaceuticals, which has offices in New York, N.Y. The patent rights in these inventions have been assigned to

and/or exclusively licensed to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to:

All fields of use, both human and veterinary, covered under the above listed patents, for the life of these patents; the selective ablation of pain-sensing neurons using vanilloid receptor agonists including resiniferatoxin and capsaicin using localized delivery, including intrathecal and intraganglionic injection.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before August 31, 2009 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Norbert Pontzer, Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852-3804; *Telephone:* (301) 435-5502; *Facsimile:* (301) 402-0220; *E-mail:* pontzern@mail.nih.gov.

SUPPLEMENTARY INFORMATION: Pain pathways, including those mediating severe pain associated with chronic and terminal diseases, have unique receptors (termed vanilloid or more recently TRPV1) that mediate the transmission of nociceptive sensory signals from the periphery through the spinal cord to the brain. Compounds such as capsaicin from hot peppers activate pain neurons by opening cation channels linked to TRPV1 receptors on nerve terminals and cell bodies. NIH inventors discovered that resiniferatoxin (RTX) is an extremely potent TRPV1 receptor agonist that produces a calcium overload and selectively degeneration of pain neurons when cell body TRPV1 receptors are activated by RTX. Intrathecal or intraganglionic administration of RTX can thus cause the permanent and selective destruction of the pain neurons in the CNS displaying TRPV1 receptors. This invention allows pain control in human and other animals with intractable pain through selective ablation of pain pathway neurons.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant

of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 19, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9-15576 Filed 6-30-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0294]

Regulation of Tobacco Products; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is establishing a public docket to obtain information on the implementation of the Family Smoking Prevention and Tobacco Control Act. FDA is establishing this docket in order to provide an opportunity for all interested parties to provide information and share views on the implementation of the new law.

DATES: Submit written or electronic comments by September 29, 2009.

ADDRESSES: Submit electronic comments to <http://www.regulations.gov>.

Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Erik Mettler, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., WO1, rm. 4300, Silver Spring, MD 20993, 301-796-4830, FAX: 301-847-3541, Erik.Mettler@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Tobacco products are responsible for more than 430,000 deaths each year. The Centers for Disease Control and Prevention (CDC) report an estimated 60

million adults smoke cigarettes in the United States, even though this behavior will result in death or disability for half of all regular users. Paralleling this enormous health burden is the economic burden of tobacco use, which is estimated to total \$193 billion annually in medical expenditures and lost productivity. Curbing the significant adverse consequences of tobacco use is one of the most important public health goals of our time.

On June 22, 2009, the President signed H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, into law. The Family Smoking Prevention and Tobacco Control Act grants FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. The Family Smoking Prevention and Tobacco Control Act authorizes FDA to require disclosure of tobacco product ingredients and additives; regulate "modified risk" tobacco products; create standards for tobacco products, including standards for the reduction or elimination of certain constituents; restrict sales, distribution, advertising, and promotion of tobacco products; and require stronger health warnings on packaging. The Family Smoking Prevention and Tobacco Control Act also requires FDA to issue its 1996 final regulation restricting the sale and distribution of nicotine-containing cigarettes and smokeless tobacco products. The rule contains provisions designed to limit young people's access to tobacco products, as well as restrictions on marketing to curb the appeal of these products to minors.

We are requesting comments that will inform strategies to protect the public health as we implement this new authority. A copy of the Family Smoking Prevention and Tobacco Control Act is available on the agency's Web site at <http://www.fda.gov/tobacco>.

II. Request for Comments and Information

We are particularly interested in comments on the approaches and actions the agency should consider initially to increase the likelihood of reducing the incidence and prevalence of tobacco product use and protecting the public health. Although the agency will not respond to specific suggestions, we will consider them in establishing the new Center for Tobacco Products and in implementing the Family Smoking Prevention and Tobacco Control Act. In the future, we intend to solicit public input on specific issues. Please organize any comments you have

in response to this notice using these general categories:

- Federal, State, and local government collaboration;
- New product submission and approval;
- Product ingredient disclosure;
- Prevention;
- Tobacco use by specific groups including minors, women, and racial and ethnic minority populations;
- Tobacco addiction;
- Smoking cessation;
- Data collection;
- Products with "reduced harm/risk" claims;
- Enforcement;
- Research and testing;
- Advertising and marketing of tobacco products;
- Label statements and warnings (including graphic warnings);
- Tobacco product standards (including flavors, ingredients, etc.);
- Sale and distribution of tobacco products;
- Manufacturing restrictions and facilities controls; and
- Other.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 25, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-15549 Filed 6-30-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2009-0035]

National Protection and Programs Directorate, Office of Infrastructure Protection; Submission for Chemical Facility Anti-Terrorism Standards Information Collection 1670-NEW.

AGENCY: National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division, DHS.

ACTION: 60-Day Notice and request for comments: New information collection request 1670-NEW.

SUMMARY: The Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division (ISCD) will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is a new information collection. The purpose of this notice is to solicit comments during a 60-day public comment period prior to the submission of this collection to OMB. The submission describes the nature of the information collection, the categories of respondents, the estimated burden and cost.

DATES: Comments are encouraged and will be accepted until August 31, 2009. This process is conducted in accordance with 5 CFR 1320.8.

ADDRESSES: Interested persons are invited to submit comments on the proposed information collection through Federal Rulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments must be identified by docket number DHS-2009-0035.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained through Federal Rulemaking Portal at <http://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:

Program Description

The Chemical Facility Anti-Terrorism Standards (CFATS), 6 CFR Part 27, are the Department's regulations under Section 550 governing security at high-risk chemical facilities. CFATS represents a national-level effort to minimize terrorism risk to such facilities. Its design and implementation balance maintaining economic vitality with securing facilities and their surrounding communities. The regulations were designed, in collaboration with the private sector and other stakeholders, to take advantage of protective measures already in place and to allow facilities to employ a wide range of tailored measures to satisfy the regulations' Risk-Based Performance Standards (RBPS).

The instruments within this collection will be used to manage the CFATS program.

Solicitation of Comments

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis*Agency*

Department of Homeland Security, Office of the Under Secretary for National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division.

Title: Chemical Facility Anti-Terrorism Standards.

OMB Number: 1670-NEW.

Request for Redetermination

Frequency: On occasion.
Affected Public: Private Sector.
Number of Respondents: 1,041.75.
Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 260 hours.
Total Burden Cost (capital/startup): \$0.00.

Total Burden Cost (operating/maintaining): \$20,835.

Request for an Extension

Frequency: On occasion.
Affected Public: Private Sector.
Number of Respondents: 1,454.25.
Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 364 hours.
Total Burden Cost (capital/startup): \$0.00.

Total Burden Cost (operating/maintaining): \$29,085.

Notification of a New Top Screen

Frequency: On occasion.
Affected Public: Private Sector.
Number of Respondents: 6250.

Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 1,563 hours.
Total Burden Cost (capital/startup): \$0.00.

Total Burden Cost (operating/maintaining): \$125,000.

Request for a Technical Consultation

Frequency: On occasion.
Affected Public: Private Sector.
Number of Respondents: 1,454.25.
Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 364 hours.
Total Burden Cost (capital/startup): \$0.00.

Total Burden Cost (operating/maintaining): \$29,085.

Signed: June 24, 2009.

Philip Reitingger,

Deputy Under Secretary, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E9-15473 Filed 6-30-09; 8:45 am]

BILLING CODE 9110-9P-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2009-0033]

National Protection and Programs Directorate, Office of Infrastructure Protection; Submission for Chemical Security Assessment Tool Revision of Information; Collection 1670-0007

AGENCY: National Protection and Programs Directorate, Office of Infrastructure Protection Infrastructure Security Compliance Division, DHS.

ACTION: 60-Day Notice and request for comments: Revision of information collection request 1670-0007.

SUMMARY: The Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division (ISCD) will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is being revised. The purpose of this notice is to solicit comments during a 60-day public comment period prior to the submission of this revised collection to OMB. The submission describes the nature of the information collection, the categories of respondents, the estimated burden and cost.

DATES: Comments are encouraged and will be accepted until August 31, 2009.

This process is conducted in accordance with 5 CFR 1320.8.

ADDRESSES: Interested persons are invited to submit comments on the proposed information collection through Federal Rulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments must be identified by docket number DHS-2009-0033.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained through Federal Rulemaking Portal at <http://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:**Program Description**

Section 550 of Public Law 109-295 provides the Department of Homeland Security with the authority to regulate the security of high-risk chemical facilities. Before the enactment of Section 550, the Department did not have authority to regulate the security of most of our nation's chemical facilities. On April 9, 2007, the Department issued an Interim Final Rule (IFR), implementing this statutory mandate at 72 FR 17688. Section 550 requires a risk-based approach to security.

The Chemical Facility Anti-Terrorism Standards (CFATS), 6 CFR Part 27, are the Department's regulations under Section 550 governing security at high-risk chemical facilities. CFATS represents a national-level effort to minimize terrorism risk to such facilities. Its design and implementation balance maintaining economic vitality with securing facilities and their surrounding communities. The regulations were designed, in collaboration with the private sector and other stakeholders, to take advantage of protective measures already in place and to allow facilities to employ a wide range of tailored measures to satisfy the regulations' Risk-Based Performance Standards (RBPS).

CFATS also establishes, in 6 CFR 27.400, the requirements that covered persons must follow to safeguard certain documents and other information developed under the regulations. This information is identified as "Chemical-terrorism Vulnerability Information" (CVI) and by law receives protection from public disclosure and misuse.

The Department collects the primary core regulatory data electronically through the Chemical Security Assessment Tool (CSAT).

Solicitation of Comments

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency

Department of Homeland Security, Office of the Under Secretary for National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division.

Title: Chemical Security Assessment Tool.

OMB Number: 1670-0007.

CFATS Helpdesk

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 25,000.

Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 6,250 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$500,000.

Chemical-Terrorism Vulnerability Information Authorization

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 8,073.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 8,073 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$645,840.

CSAT User Registration

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 4,167.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 4,167 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$333,360.

CSAT Top Screen

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 4,167.

Estimated Time per Respondent: 30.3 hours.

Total Burden Hours: 189,390 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$15,151,212.

Security Vulnerability Assessment & Alternative Security Program Submitted in Lieu of the Security Vulnerability Assessment

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 825.

Estimated Time per Respondent: 250 hours.

Total Burden Hours: 309,375 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$24,750,000.

Site Security Plan (SSP) & Alternative Security Program Submitted in Lieu of the Site Security Plan

Frequency: On occasion.

Affected Public: Private Sector.

Number of Respondents: 825.

Estimated Time per Respondent: 200 hours.

Total Burden Hours: 247,500 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$19,800,000.

Signed: June 24, 2009.

Philip Reitingger,

Deputy Under Secretary, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E9-15476 Filed 6-30-09; 8:45 am]

BILLING CODE 9110-9P-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2009-0034]

National Protection and Programs Directorate, Office of Infrastructure Protection; Submission for Chemical Facility Anti-Terrorism Standards Chemical-terrorism Vulnerability Information (CVI) Information Collection 1670-NEW

AGENCY: National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division, DHS.

ACTION: 60-Day Notice and request for comments: New information collection request 1670-NEW.

SUMMARY: The Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division (ISCD) will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is a new information collection. The purpose of this notice is to solicit comments during a 60-day public comment period prior to the submission of this collection to OMB. The submission describes the nature of the information collection, the categories of respondents, the estimated burden and cost.

DATES: Comments are encouraged and will be accepted until August 31, 2009. This process is conducted in accordance with 5 CFR 1320.8.

ADDRESSES: Interested persons are invited to submit comments on the proposed information collection through Federal Rulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments must be identified by docket number DHS-2009-0034.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained through Federal Rulemaking Portal at <http://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:

Program Description

The Chemical Facility Anti-Terrorism Standards (CFATS), 6 CFR Part 27, are the Department's regulations under Section 550 governing security at high-risk chemical facilities. CFATS represents a national-level effort to minimize terrorism risk to such facilities. Its design and implementation balance maintaining economic vitality with securing facilities and their surrounding communities. The regulations were designed, in collaboration with the private sector and other stakeholders, to take advantage of protective measures already in place and to allow facilities to employ a wide range of tailored measures to satisfy the regulations' Risk-Based Performance Standards (RBPS).

CFATS also establishes, in 6 CFR 27.400, the requirements that covered persons must follow to safeguard certain documents and other information developed under the regulations. This

information is identified as "Chemical-terrorism Vulnerability Information" (CVI) and by law receives protection from public disclosure and misuse.

The instruments within this collection will be used to manage the CVI program in support of CFATS.

Solicitation of Comments

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency

Department of Homeland Security, Office of the Under Secretary for National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division.

Title: CFATS Chemical-terrorism Vulnerability Information: OMB Number: 1670-NEW.

Chemical-Terrorism Vulnerability Information Authorization

Frequency: On occasion.
Affected Public: Private Sector.
Number of Respondents: 8,073.
Estimated Time per Respondent: 1 hour.
Total Burden Hours: 8,073 hours.
Total Burden Cost (Capital/Startup): \$0.00.
Total Burden Cost (Operating/Maintaining): \$645,840.

Determination of CVI

Frequency: On occasion.
Affected Public: CVI Authorized Users.
Number of Respondents: 250.
Estimated Time per Respondent: 0.25 hours.
Total Burden Hours: 62.5 hours.

Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$5,000.

Determination of a "Need To Know"

Frequency: On occasion.
Affected Public: CVI Authorized Users.
Number of Respondents: 12,500.
Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 3,125 hours.
Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$250,000.

Disclosure of CVI Information

Frequency: On occasion.
Affected Public: CVI Authorized Users.
Number of Respondents: 250.
Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 62.5 hours.
Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$5,000.

Notification of Emergency or Exigent Circumstances

Frequency: On occasion.
Affected Public: CVI Authorized Users.
Number of Respondents: 250.
Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 62.5 hours.
Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$5,000.

Tracking Log for CVI Received

Frequency: On occasion.
Affected Public: CVI Authorized Users.
Number of Respondents: 25,000.
Estimated Time per Respondent: 0.08 hours.

Total Burden Hours: 24,000 hours.
Total Burden Cost (Capital/Startup): \$0.00.

Total Burden Cost (Operating/Maintaining): \$1,920,000.

Signed: June 24, 2009.

Philip Reitingger,

Deputy Under Secretary, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E9-15481 Filed 6-30-09; 8:45 am]

BILLING CODE 9110-9P-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG-2009-0579]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of open teleconference meeting.

SUMMARY: This notice announces a teleconference of the Merchant Marine Personnel Advisory Committee (MERPAC). The purpose of the teleconference is for MERPAC to discuss and prepare recommendations for the Coast Guard concerning paragraph III.B.1 and III.B.2 of its Task Statement 64, Comprehensive Review of the STCW Convention and the STCW Code. MERPAC provides advice and makes recommendations to the Coast Guard on matters related to the training, qualification, licensing, certification, and fitness of seamen serving in the U.S. merchant marine.

DATES: The teleconference call will take place on Tuesday, July 21, 2009, from 1 p.m. until 3 p.m., EDT.

ADDRESSES: Members of the public may participate by dialing 1-877-950-5410. You will then be prompted to dial your participant passcode, which is "9876776#". Please ensure that you enter the "#" mark. Public participation is welcome; however, the number of teleconference lines is limited, and lines are available first-come, first-served. Members of the public may also participate by coming to Room 3317, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. We request that members of the public who plan to attend this meeting notify Mr. Jerry Miente at 202-372-1407 no later than July 17, 2009, so that he may notify building security officials.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Miente, telephone 202-372-1407, fax 202-372-1926.

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register** [5 U.S.C. App. 2]. MERPAC is chartered under that Act. It provides advice and makes recommendations to the Assistant Commandant for Marine Safety, Security, and Stewardship, on issues concerning merchant marine personnel such as implementation of the International Convention on Standards of Training, Certification and

Watchkeeping for Seafarers (STCW), 1978.

Task Statement 64, as well as the document referenced in paragraph III.B.2 of Task Statement 64, may be viewed in our online docket, USCG-2009-0579, at <http://www.regulations.gov>.

Tentative Agenda:

Tuesday, July 21, 2009

- 1 p.m.–1:05 p.m.—Welcome and Opening Remarks—MERPAC Chairman Captain Andrew McGovern.
- 1:05 p.m.–2:15 p.m.—Open discussion concerning paragraphs III.B.1 and III.B.2 of Task Statement 64, Comprehensive Review of the STCW Convention and the STCW Code.
- 2:15 p.m.–2:45 p.m.—Public comment period.
- 2:45 p.m.–3 p.m.—MERPAC vote on recommendations for the Coast Guard.
- 3 p.m.—Adjourn.

This tentative agenda is subject to change and the meeting may adjourn early if all committee business has been completed.

Public Participation

The Chairman of MERPAC is empowered to conduct the teleconference in a way that will, in his judgment, facilitate the orderly conduct of business. During its teleconference, the committee welcomes public comment. The committee will make every effort to hear the views of all interested parties, including the public. Written comments may be submitted to Ms. Mayte Medina, Designated Federal Officer, at Commandant (CG-5221) ATTN MERPAC, US Coast Guard, 2100 Second Street St., STOP 7126, Washington, DC 20593-7126. Comments should be received no later than July 17, 2009.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Mianite as soon as possible.

Dated: June 24, 2009.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. E9-15561 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5300-N-30]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 the Historically Black Colleges and Universities (HBCU) Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD announces the availability on its Web site of the application information, submission deadlines, funding criteria, and other requirements for the FY2009 Historically Black Colleges and Universities (HBCU) Program NOFA. This NOFA makes approximately \$9 million available to assist Historically Black Colleges and Universities (HBCU) of Higher Education expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, principally for persons of low- and moderate-income, consistent with the purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) as amended. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the HUD Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

FOR FURTHER INFORMATION CONTACT: For information concerning the Historically Black Colleges and Universities (HBCU) Program, contact Ophelia Wilson, Office of University Partnerships, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8226, Washington DC 20410; telephone 202-402-4390 (this is not a toll-free number). Persons with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service during working hours at 800-877-8339.

Dated: June 9, 2009.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. E9-15564 Filed 6-30-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5300-N-27]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Tribal Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD announces the availability on its Web site of the application information, submission deadlines, funding criteria, and other requirements for the FY2009 Tribal Colleges and Universities Program NOFA. This NOFA makes approximately \$5 million available to assist Tribal Colleges and Universities (TCU) to build, expand, renovate, and equip their own facilities, and to expand the role of the TCUs into the community through the provision of needed services such as health programs, job training, and economic development activities. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the HUD Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

FOR FURTHER INFORMATION CONTACT: For information concerning the Tribal Colleges and Universities Program, contact Sherone Ivey, Office of University Partnerships, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8226, Washington DC 20410; telephone 202-402-4200 (this is not a toll-free number). Persons with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service during working hours at 800-877-8339.

Dated: June 9, 2009.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. E9-15560 Filed 6-26-09; 4:15 pm]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5300-N-29]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 the Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD announces the availability on its Web site of the application information, submission deadlines, funding criteria, and other requirements for the FY2009 Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program NOFA. This NOFA makes approximately \$3 million available to assist Alaska Native/Native Hawaiian Institutions (AN/NHI) of Higher Education expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, principally for persons of low- and moderate-income, consistent with the purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) as amended. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the HUD Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

FOR FURTHER INFORMATION CONTACT: For information concerning the Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program, contact Sherone Ivey, Office of University Partnerships, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8226, Washington DC 20410; telephone 202-402-4200 (this is not a toll-free number). Persons with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay

Service during working hours at 800-877-8339.

Dated: June 9, 2009.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. E9-15566 Filed 6-30-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5281-N-52]

Section 8 Contract Renewal Policy—Guidance for the Renewal of Project-Based Section 8 Contracts

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Section 8 renewal collection procedure will notify HUD Section 8 Owners in advance of contract renewal due date, establishes comparable market rents, renew Section 8 contracts and processes, Section 8 funding on an annual basis.

DATES: *Comments Due Date:* July 31, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502-Pend) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *fax:* 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at Lillian_L_Deitzer@HUD.gov or telephone (202) 402-8048. This is not a toll-free number. Copies of available

documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information 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 estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Section 8 Contract Renewal Policy—Guidance for the Renewal of Project-Based Section 8 Contracts.

OMB Approval Number: 2502-Pend.

Form Numbers: HUD-9624, HUD-9625, HUD-9626, HUD-9627, HUD-9628, HUD-9628-A, HUD-9628-B, HUD-9628-C, HUD-9628-D, HUD-9629, HUD-9630, HUD-9631, HUD-9632, HUD-9633, HUD-9634, HUD-9635, HUD-9636, HUD-9637, HUD-9638, HUD-9639, HUD-9640, HUD-9641, HUD-9642, HUD-9643, HUD-9644, HUD-9645, HUD-9646, HUD-9647, HUD-9648-A, HUD-9648-B, HUD-9648-C, HUD-9648-D.

Description of the Need for the Information and Its Proposed Use: Section 8 renewal collection procedure will notify HUD Section 8 Owners in advance of contract renewal due date, establishes comparable market rents, renew Section 8 contracts and processes, Section 8 funding on an annual basis.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per responses	=	Burden hours
Reporting burden	7,077	7.59		1		53,722

Total Estimated Burden Hours:
53,722.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 25, 2009.

Stephen A. Hill,

*Acting Director, Policy and E-GOV, Officer,
Office of the Chief Information Officer.*

[FR Doc. E9-15562 Filed 6-30-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-921-07-1320-EL; COC-70615]

Notice of Public Meeting, To Receive Comments on an Environmental Analysis, Finding of No Significant Impact, Maximum Economic Recovery Report, and Fair Market Value for Coal Lease Application COC-70615

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of scheduled Public Meeting.

SUMMARY: The public meeting for Wednesday, July 8, 2009, at 7 p.m. is hereby cancelled. The meeting will be re-scheduled at a future date; which has not been determined.

FOR FURTHER INFORMATION CONTACT: Kurt Barton at BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, or by telephone 303-239-3714.

Dated: June 25, 2009.

Kurt M. Barton,

Solid Minerals LLE, Division of Energy, Lands and Minerals.

[FR Doc. E9-15512 Filed 6-30-09; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R3-ES-2009-N130; 30120-1113-0000-F6]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some

exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: We must receive any written comments on or before July 31, 2009.

ADDRESSES: Send written comments to the Regional Director, Attn: Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, MN 55111-4056; electronic mail, permitsR3ES@fws.gov.

FOR FURTHER INFORMATION CONTACT: Peter Fasbender, (612) 713-5343.

SUPPLEMENTARY INFORMATION:

Background

We invite public comment on the following permit applications for certain activities with endangered species authorized by section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) and our regulations governing the taking of endangered species in the Code of Federal Regulations at 50 CFR 17. Submit your written data, comments, or request for a copy of the complete application to the address shown in **ADDRESSES**. When submitting comments, please refer to the appropriate permit application number.

Permit Applications

Permit Application Number:
TE217351.

Applicant: U.S. Forest Service, Nelsonville, Ohio.

The applicant requests a permit to take (harass through capture and release) Indiana bats (*Myotis sodalis*), gray bats (*Myotis grisescens*), and Virginia big-eared bats (*Corynorhinus townsendii virginianus*) on the Wayne National Forest and Daniel Boone National Forest in Ohio and Kentucky. The applicant's proposed activities under this permit application include presence or absence surveys, radio-telemetry studies to document habitat use, hibernacula surveys, population monitoring, and collection of biological data to complete environmental analyses for forest planning.

The applicant's proposed activities are for enhancement of the survival of the species in the wild.

Permit Application Number: TE216605.
Applicant: Robert R. Kiser, Whitesburg, Kentucky.

The applicant requests to renew a permit to take (capture and release, sample collection) Indiana bats, gray bats, and Virginia big-eared bats throughout the range of the species in the following States: Alabama,

Arkansas, Connecticut, Delaware, Georgia, Iowa, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, Mississippi, North Carolina, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, Vermont, Wisconsin, and West Virginia. The applicant's proposed activities under this permit would include presence or absence surveys, radio-telemetry studies to document habitat use, population monitoring, and sample collection (tissue samples and guano). In addition, this renewal application includes a request to renew an existing permit to take (capture and release) blackside dace (*Phoxinus phoxinus*) in Kentucky and Tennessee in the context of aquatic surveys.

All proposed activities are for enhancement of the survival of the species in the wild.

Public Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive are available for public inspection, by appointment, during normal business hours at the address shown in the **ADDRESSES** section. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Dated: June 24, 2009.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Region 3.

[FR Doc. E9-15516 Filed 6-30-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF JUSTICE**Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**

Notice is hereby given that on June 25, 2009, a proposed Consent Decree was filed with the United States District Court for the Eastern District of Pennsylvania in *United States and The Commonwealth of Pennsylvania Department of Environmental Protection v. George R. Rubright and Mary Lou Rubright*, Case No. 5:09-cv-2853 (E.D. Pa.). The proposed consent decree resolves cost recovery claims asserted by the U.S. Environmental Protection Agency ("EPA") under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") Section 107(a), 42 U.S.C. 9607(a), and by the Commonwealth of Pennsylvania Department of Environmental Protection ("PADEP") under the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. 6020, against George R. Rubright and Mary Lou Rubright for costs incurred in connection with the Water Street Battery Site (the "Site") located in Shoemakersville, Berks County, Pennsylvania.

The United States and the Commonwealth incurred about \$1,326,649.99 in response costs to address lead contamination at the Site that resulted from using crushed battery casings as fill material. The Defendants agree to pay \$484,000 to the United States, to settle EPA's claims, and \$1,000 to the Commonwealth, to settle PADEP's claims.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, comments should refer to *United States and The Commonwealth of Pennsylvania Department of Environmental Protection v. George R. Rubright and Mary Lou Rubright* (E.D. Pa.), D.J. Ref. No. 90-11-3-08686.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney for the Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Philadelphia, Pennsylvania 19106, and at the office of the Environmental Protection Agency

Region 3, 1650 Arch Street, Philadelphia, PA 19103. During the comment period, the proposed Settlement Agreement may also be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decree.html. A copy of the proposed Settlement Agreement may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$8.00 for the Settlement Agreement (25 cents per page reproduction costs) payable to the United States 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. E9-15494 Filed 6-30-09; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE**Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act**

Notice is hereby given that on June 25, 2009, a proposed Consent Decree in *United States of America et al. v. Saturn Chemicals, Inc., et al.*, Civil Action No. 08-3537 was lodged with the United States District Court for the District of New Jersey.

The Consent Decree resolves claims under CERCLA Section 107(a)(2), as alleged in a Complaint filed July 14, 2008 against Saturn Chemicals, Inc., PolySat, Inc., and Darryl Manuel (the "Saturn Defendants"), as well as third-party claims against two third-party defendants. Under the settlement, the Saturn Defendants will pay to the United States \$550,000 plus interest, third-party defendant Township of Lawrence will pay to the United States \$60,000 plus interest in two installments, and third-party defendant Mercer Wrecking and Recycling Corporation will pay to the United States \$140,000 plus interest up to a total of \$145,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments

relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America et al. v. Saturn Chemicals, Inc., et al.*, Civil Action No. 08-3537 (D. NJ), D.J. Ref. 90-11-3-09114.

The Decree may be examined at the Office of the United States Attorney, District of New Jersey, Peter Rodino Federal Building, 970 Broad Street, Suite 700, Newark, NJ 07102. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$23.25 (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. E9-15503 Filed 6-30-09; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE**Notice of Settlement Agreement Under the Resource Conservation and Recovery Act**

Notice is hereby given that on June 25, 2009, the United States filed a Notice of Settlement Agreement in *In re: Fleming Companies, Inc., et al.*, Case No. 03-10945 (MFW) (Bankr. D. Del.). The proposed Settlement Agreement resolves claims by the United States Environmental Protection Agency ("EPA") and the Arizona Department of Environmental Quality ("ADEQ") under the Resource Conservation and Recovery Act, 42 U.S.C. 6991 *et seq.*, as amended ("RCRA"), against Fleming Companies, Inc. ("Fleming") and the Fleming Post Confirmation Trust ("the PCT") with respect to two underground storage tanks ("USTS") located at the

Food 4 Less facility at 240 W. Warner Road, Chandler, Arizona (the "Facility").

Fleming and certain affiliated debtors filed bankruptcy petitions under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. 101, *et seq.* as amended, in the U.S. Bankruptcy Court for the District of Delaware on April 1, 2003. The Bankruptcy Court entered an Order confirming Fleming's plan of reorganization ("the Plan") on or about July 27, 2004. The Plan created the PCT to administer certain of Fleming's responsibilities under the Plan.

The Settlement Agreement requires the PCT to perform or pay for closure, and corrective action if necessary, with respect to the USTs at the Facility, in accordance with 40 CFR 280, up to a maximum cost of \$150,000. If the required work has not been completed by October 31, 2009, EPA will provide a written estimate to the PCT of the cost of the remaining work and (subject to a limited right to dispute EPA's estimate) the PCT will make payment to ADEQ for that amount (subject to the \$150,000 maximum), and ADEQ will complete the remaining work. The United States and ADEQ covenant not to sue the PCT, Fleming, or the affiliated debtors under RCRA with respect to the Facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *In re: Fleming Companies, Inc., et al.*, Case No. 03-10945 (MFW) (Bankr. D. Del.), D.J. Ref. 90-11-2-08148.

The Settlement Agreement may be examined at the U.S. Environmental Protection Agency, Region 9, Office of Regional Counsel, 75 Hawthorne Street, San Francisco, California 94105. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Settlement Agreement 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 number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of

\$7.25 (.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 Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9-15496 Filed 6-30-09; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121-0321]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: National Institute of Justice Voluntary Body Armor Compliance Testing Program.

The Department of Justice, Office of Justice Programs, National Institute of Justice (NIJ) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the approval is valid for three years. Comments are encouraged and should be directed to the National Institute of Justice, Office of Justice Programs, Department of Justice, Attention: Cassandra Robinson, 810 7th St., NW., Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until August 31, 2009. This process is conducted in accordance with 5 CFR 1320.10.

All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to NIJ at the above address.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the

- proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information:

- (1) Type of information collection: Existing Collection.
- (2) The title of the form/collection: NIJ Body Armor Compliance Testing Program. This collection consists of five forms: Compliance Testing Program Applicant Agreement; Ballistic Body Armor Model Application and Body Armor Build Sheet; Declaration for Ballistic Body Armor; Compliance Testing Program Conformity Assessment Follow-up Agreement; NIJ-Approved Laboratory Application and Agreement.

(3) Agency Form Number: None. Component Sponsoring Collection: National Institute of Justice, Office of Justice Programs, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: Body Armor Manufacturers and Testing Laboratories. Other: None. The purpose of the NIJ Voluntary Compliance Testing Program (CTP) is to ensure to the degree possible that body armor used for law enforcement and corrections applications is safe, reliable, and meets performance requirements over the declared performance period. Body armor models that are successfully tested by the CTP and listed on the NIJ Compliant Products List are eligible for purchase with grant funding through the Ballistic Vest Partnership.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: Total of 60 respondents estimated.

CTP Applicant Agreement: Estimated 50 respondents; 1 hour each;

Ballistic Body Armor Model Application and Body Armor Build Sheet: Estimated 50 respondents (estimated 250 responses) at 30 minutes each;

Declaration for Ballistic Body Armor: Estimated 50 respondents (estimated 250 responses) at 15 minutes each;

CTP Conformity Assessment Follow-up Agreement: Estimated 50 respondents (estimated 250 responses) at 15 minutes each;

NIJ-Approved Laboratory Application and Agreement: Estimated 8 to 10 respondents at 1 hour each.

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated total public burden associated with this information is 310 hours in the first year and 100 hours each subsequent year.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

June 25, 2009.

Lynn Bryant,

Department Clearance Officer, Department of Justice.

[FR Doc. E9-15501 Filed 6-30-09; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Direct Supervision: Curriculum Development

AGENCY: National Institute of Corrections, Department of Justice

ACTION: Solicitation for a Cooperative Agreement

SUMMARY: The National Institute of Corrections (NIC), Jails Division, is seeking applications for the development of two training program curricula: one that focuses on the role of the housing-unit officer and shift supervisor in a direct supervision jail and another that focuses on the role of the administrator in a direct supervision jail. The project will be for an eighteen-month period, and will be carried out in conjunction with the NIC Jails Division. NIC Jails Division staff will direct the project and will participate in curriculum design, lesson plan development, and the creation of training-related materials.

DATES: Applications must be received by 4 p.m. (EDT) on Friday, July 24, 2009.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or a similar service to ensure delivery by the due date.

Applicants who wish to hand-deliver their applications should bring them to 500 First Street, NW., Washington, DC

20534 and dial (202) 307-3106, ext. 0 at the front desk for pickup.

Faxed or e-mailed applications will not be accepted.

FOR FURTHER INFORMATION: A copy of this announcement can be downloaded from the NIC Web page at <http://www.nicic.gov/cooperativeagreements>.

All technical or programmatic questions concerning this announcement should be directed to Robbye Braxton-Mintz, Correctional Program Specialist, National Institute of Corrections. Ms. Braxton-Mintz can be reached by calling 1-800-995-6423 ext. 4-4562 or by e-mail at rbraxtonmintz@bop.gov.

SUPPLEMENTARY INFORMATION:

Background: Direct supervision jails combine a physical plant design, interior fixtures and furnishings, and an inmate management philosophy to significantly reduce the problems commonly associated with jails, such as violence, vandalism, inmate rule violations, and unsanitary conditions. Direct supervision is based on eight principles: (1) Effective control, (2) effective supervision, (3) competent staff, (4) safety of staff and inmates, (5) manageable and cost-effective operations, (6) effective communication, (7) classification and orientation, and (8) justice and fairness.

Although all staff in a direct supervision jail must understand the principles and their operational implications, there are three staff positions that are key in the implementation of direct supervision: the jail administrator, the shift supervisors, and the housing-unit staff. With the development of these two curricula, NIC will be able to offer training programs that will better prepare staff in each of these positions to carry out their duties in support of direct supervision.

The two curricula are: “The Role of the Housing Officer and Supervisor in a Direct Supervision Jail” and “The Role of the Administrator in a Direct Supervision Jail—Commitment, Leadership, and Support.”

“The Role of the Housing Officer and Supervisor in a Direct Supervision Jail” curriculum will focus on the role of the housing-unit officer and the shift supervisor in a direct supervision jail. It will be based on the NIC program titled “How to Run a Direct Supervision Housing Unit: Training for Trainers.” This program is currently designed to familiarize staff trainers in jails with “How to Run a Direct Supervision Housing Unit,” and prepare them to conduct this program for staff in their own jail.

Under this cooperative agreement project, the “How to Run a Direct Supervision Housing Unit”, curriculum will be updated. Participants will be teams of two trainers and two shift supervisors from each participating jail. This program will consist of two phases. At the completion of the first phase, the trainers and shift supervisors will split up and receive additional instruction. For the trainers, the instruction will focus on how to conduct this training program for staff in their own jail. For the supervisors, the instruction will focus on their role in supporting the officer in effective housing-unit management. There should be the opportunity for participant teams to develop an action plan to conduct “How to Run a Direct Supervision Housing Unit” for their housing-unit staff.

“The Role of the Administrator in a Direct Supervision Jail—Commitment, Leadership, and Support” will be a new curriculum focusing on the role of the administrator in a direct supervision jail. It will include, at a minimum, a discussion of the direct supervision principles; the jail administrator’s leadership role related specifically to direct supervision; recruiting, hiring, promoting, and training staff in support of direct supervision; common challenges in implementing and sustaining direct supervision operations; decision making within the context of direct supervision; and assessing operations and operational outcomes within the framework of direct supervision. Only administrators will be participants in this program.

Objectives: Two training curricula are to be developed. The first will focus on the role of the housing-unit officer and the shift supervisor in implementing and supporting direct supervision. The second will focus on the role of the jail administrator in providing leadership and support for direct supervision.

Use of Curricula: NIC will use these curricula as the basis for its training programs on the role of the housing unit officer, shift supervisor, and administrator in a direct supervision jail.

The curricula will become the sole property of NIC, and will not be published for general distribution; however, curricula materials will be made available to training participants.

Scope of Work: The work will involve the production of two complete curricula, each of which will include: program description (overview); detailed narrative lesson plans; presentation slides for each lesson plan, and; participant manual that follows the lesson plans.

The curricula will be designed for adult learners and will take into account the need to accommodate a variety of learning styles. Lesson plans will be in a format provided by NIC.

The schedule for the development of both curricula will include, at a minimum, the following activities: meet with NIC project manager for project overview and initial planning; review materials provided by NIC; meet with NIC staff to draft a framework for each curriculum, including content topics, sequencing, and time frames; meet with NIC staff to outline content for each module and assign writers (including one NIC staff); write lesson plans; exchange lesson plans among the writers for review; revise lesson plans; send lesson plans to advisory committee for review and comment (committee is composed of five members identified by NIC and paid by the awardee); meet with NIC staff to review comments and agree on revisions; revise lesson plans; develop participant manual, presentation slides, and program overview; submit final draft of all materials to NIC for review; revise as directed by NIC; and submit final curricula in camera-ready hard copy and on disk in Word format.

“The Role of the Housing Officer and Supervisor in a Direct Supervision Jail” is to be developed first. Because of the length and complexity of this curricula, lesson plans should be grouped into thirds for development. Also, this curriculum is to be piloted in the Washington, DC area. To conduct the pilot, the awardee will hire four instructors for this nine-day program and pay for their fees, travel, lodging, meals, and any other related expenses. NIC will secure training space and equipment, select participants, and pay for all costs related to participant materials and participant travel, lodging, and meals, where necessary. The pilot will be conducted after all lesson plans, presentation slides, and the participant manual are drafted.

“The Role of the Administrator in a Direct Supervision Jail—Commitment, Leadership, and Support” is to be developed second and will be informed, at least in part, by the first curriculum. This curriculum will not be piloted under this cooperative agreement.

Application Requirements: An application package must include OMB Standard Form 425, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant’s financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); and an outline of projected costs. The following

additional forms must also be included: OMB Standard Form 424A, Budget Information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (all OMB Standard Forms are available at <http://www.grants.gov>); DOJ/FBOP/NIC Certification Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at <http://www.nicic.org/Downloads/PDF/certif-frm.pdf>.) Applications should be concisely written, typed double-spaced and reference the NIC Opportunity Number and Title provided in this announcement.

For applications that are hand delivered or submitted via Fed-Ex, please include an original and three copies of the full proposal (program and budget narrative, application forms, assurances, and sample curriculum.) (Note that sample curriculum may be submitted in hard copy or on disk in Word or WordPerfect format.) The original package should have the applicant’s signature in blue ink. Electronic submissions will only be accepted via <http://www.grants.gov>.

The narrative portion of the application should include, at a minimum, a brief paragraph indicating the applicant’s understanding of the project’s purpose; brief paragraph that summarizes the project goals and objectives; clear description of the methodology that will be used to complete the project and achieve its goals; statement or chart of measurable project milestones and time lines for the completion of each milestone; description of the qualifications of the applicant organization and a resume for the principle and each staff member assigned to the project that documents relevant knowledge, skills and ability to carry out the project; and a budget that details all costs for the project, shows consideration for all contingencies for this project, and notes a commitment to work within the proposed budget.

In addition, a curriculum developed by the applicant or primary project-team members must be included as a part of the application package. This curriculum must include lesson plans, presentation slides, and a participant manual. There must also be a description of the role of the applicant or project-team member in the development of this sample curriculum. The curriculum submitted DOES NOT have to be related to direct supervision.

Authority: Public Law 93–415.

Funds Available: NIC is seeking applicants’ best ideas regarding

accomplishments of the scope of work and the related costs for achieving the goals of this solicitation. Funds may only be used for the activities that are linked to the desired outcome of the project.

Eligibility of Applicants: An eligible applicant is any State or general unit of local government, private agency, educational institution, organization, individual or team with expertise in the described areas. Applicants must have demonstrated ability to implement a project of this size and scope.

Review Considerations: Applications will be evaluated by a three to five member review panel. The criteria for the evaluation of each application will be as follows:

Programmatic—16%

Is there a clear understanding of the purpose of the project and scope of project activities? Does the applicant define all work and related resources required? Is there a clear understanding of the unique operational elements of a direct supervision training? Is there a clear understanding of the different roles of the administrator, supervisor and line staff in a direct supervision jail? Is there an innovative aspect to the applicant’s approach or design that merits special consideration?

Organization—20%

Is there a description of the background and expertise of all project personnel as they relate to this project? Do key project team members (individually or collectively) have experience with and expertise in jails generally and direct supervision jails specifically; have experience in designing, managing, facilitation or delivering training on direct supervision; have the skill, ability and expertise to fulfill the intent and purpose of their identified roles? Including any sub-awardee relationship proposed is the organization capable of developing, managing and controlling this type of project? Does the staffing plan propose sufficient and realistic time commitment from key personnel?

Project Management—18%

Does the applicant provide a clear, complete and precise description of the design and methodology for the proposed project? Does the applicant include measurable goals and specific quantifiable objectives? Does the application identify reasonable tasks and milestones in order to achieve goals and objectives? Does the applicant describe realistic and reasonable time frames to accomplish all project activities?

Budget—7%

Does the applicant provide adequate project cost detail/narrative to support the proposed budget? Is the estimated cost reasonable in relation to the anticipated results?

Curricula Review—39%

Has the applicant provided a sample of their curriculum including lesson plans, participant manuals or presentation slides? Is the curriculum design based on Instructional Theory Into Practice model? Do lesson plans include measurable performance objectives and are they well written (spelling, grammar)? Is the participant manual clear and does it follow the lesson plans? Do the presentation slides illustrate information from the lesson plans and do they have eye appeal?

Note: NIC will not award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1-800-333-0505 (if you are a sole proprietor, dial 1-866-705-5711 and select option 1).

Applicants may register in the CCR online at the CCR Web site: <http://www.ccr.gov>. A CCR handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 09J72. This number should appear as a reference line in the cover letter, where the opportunity number is requested on the Standard Form 424, and outside of the envelope in which the application is sent.

Questions and Answers: Any questions not addressed through this announcement can be submitted in writing to Robbye Braxton-Mintz via e-mail (rbraxtonmintz@bop.gov). Only questions received by 4 p.m. (EDT) on Wednesday, July 15, 2009 will be answered. Answers will be posted on NIC's Web site by 4 p.m. (EDT) on Friday, July 17, 2009.

Catalog of Federal Domestic Assistance Number: 16.601.

Executive Order 12372: This project is not subject to the provision of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. E9-15548 Filed 6-30-09; 8:45 am]

BILLING CODE 4410-36-P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC-2009-0243]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 398: "Personal Qualification Statement—Licensee".
2. *Current OMB approval number:* 3150-0090.
3. *How often the collection is required:* On occasion and every six years (at renewal).
4. *Who is required or asked to report:* Individuals requiring a license to operate the controls at a nuclear reactor.
5. *The number of annual respondents:* 1,410.

6. *The number of hours needed annually to complete the requirement or request:* 3,285 (2.33 hours per response).

7. *Abstract:* NRC Form 398 requests detailed information that should be submitted by a licensing applicant and facility licensee when applying for a new or renewal license to operate the controls at a nuclear reactor facility. This information, once collected, would be used for licensing actions and for generating reports on the Operator Licensing Program.

Submit, by August 31, 2009, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC-2009-0243. You may submit your comments by any of the following methods. Electronic comments: Go to <http://www.regulations.gov> and search for Docket No. NRC-2009-0243. Mail comments to NRC Clearance Officer, Tremaine Donnell (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by telephone at 301-415-6874, or by e-mail to INFOCOLLECTS.Resource@NRC.GOV.

Dated at Rockville, Maryland, this 23rd day of June 2009.

For the Nuclear Regulatory Commission,
Tremaine Donnell,
NRC Clearance Officer, Office of Information Services.

[FR Doc. E9-15520 Filed 6-30-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC-2009-0136]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 30, 2009.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 244, Registration Certificate—Use of Depleted Uranium under General License.

3. *Current OMB approval number:* 3150-0031.

4. *The form number if applicable:* NRC Form 244.

5. *How often the collection is required:* On occasion. NRC Form 244 is submitted when depleted uranium is received or transferred under general license. Information on NRC Form 244 is collected and evaluated on a continuing basis as events occur.

6. *Who will be required or asked to report:* Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).

7. *An estimate of the number of annual responses:* 23.

8. *The estimated number of annual respondents:* 23.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 23.

10. *Abstract:* 10 CFR part 40 establishes requirements for licenses for the receipt, possession, use and transfer of radioactive source and byproduct material. NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by section 40.25. The registration certification information required by NRC Form 244 is necessary to permit the NRC to make a determination on whether the possession, use, and transfer of depleted uranium source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC Worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 31, 2009. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

NRC Desk Officer, Office of Information and Regulatory Affairs (3150-0031), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

The Acting NRC Clearance Officer is Tremaine Donnell, (301) 415-6258.

Dated at Rockville, Maryland, this 23rd day of June, 2009.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E9-15522 Filed 6-30-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0266]

Office of New Reactors; Notice of Availability of the Final Interim Staff Guidance DC/COL-ISG-007 on Assessment of Normal and Extreme Winter Precipitation Loads on the Roofs of Seismic Category I Structures

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability.

SUMMARY: The NRC is issuing its Final Interim Staff Guidance (ISG) DC/COL-ISG-007 (ML091490565). This ISG provides clarification of the NRC position on identifying winter precipitation events as site characteristics and site parameters for determining normal and extreme winter precipitation loads on the roofs of Seismic Category I structures.

The NRC staff issues ISGs to facilitate timely implementation of the current staff guidance and to facilitate activities associated with review of applications for early site permits and combined licenses for the Office of New Reactors. The NRC staff will also incorporate DC/COL-ISG-007 into the next revisions of the Regulatory Guide 1.206, "Combined License Applications for Nuclear Power Plants," and related guidance documents.

ADDRESSES: The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the

Internet at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at pdr.resource@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Harvey, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone 301-415-4118 or e-mail at Brad.Harvey@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC posts its issued staff guidance on the NRC external Web page (<http://www.nrc.gov/reading-rm/doc-collections/isg/>).

Dated at Rockville, Maryland, this 23rd day of June 2009.

For the Nuclear Regulatory Commission,

William F. Burton,

Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E9-15519 Filed 6-30-09; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request For Review Of A Revised Information Collection

[OMB Control No. 3206-0033; Form RI 25-7]

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for comments on a revised information collection. This information collection Marital Status Certification Survey, "(OMB Control No. 3206-0033; Form RI 25-7), is used to determine whether widows, widowers, and former spouses receiving survivor annuities from OPM have remarried before reaching age 55 and, thus, are no longer eligible for benefits.

There are approximately 24,000 respondents. Each form takes approximately 15 minutes to complete. The annual estimated burden is 625 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606-4808,

FAX (202) 606-0910 or via E-mail to Cyrus.Benson@opm.gov. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415-3500.

and
OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606-0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9-15565 Filed 6-30-09; 8:45 am]

BILLING CODE 6325-38-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11791 and #11792]

Kentucky Disaster #KY-00025

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Kentucky dated 06/24/2009.

Incident: Severe Storms and Tornadoes.

Incident Period: 05/08/2009.

DATES: Effective Date: 06/24/2009.

Physical Loan Application Deadline Date: 08/24/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 03/24/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Madison.

Contiguous Counties:

Kentucky: Clark, Estill, Fayette, Garrard, Jackson, Jessamine, Rockcastle.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	4.875
Homeowners Without Credit Available Elsewhere	2.437
Businesses With Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11791 B and for economic injury is 11792 O.

The Commonwealth which received an EIDL Declaration # is Kentucky.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

June 24, 2009.

Karen G. Mills,

Administrator.

[FR Doc. E9-15518 Filed 6-30-09; 8:45 am]

BILLING CODE 8025-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60168; File No. SR-FINRA-2009-043]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Application of Transaction-Related Charges for Trade Reporting to the OTC Reporting Facility

June 24, 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 17, 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 and II below [sic], which Items have been prepared by FINRA. FINRA has designated the proposed rule change as "establishing or changing a due, fee or other charge" under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 7710 to clarify the application of transaction-related charges for trade reporting to the OTC Reporting Facility ("ORF").

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The FINRA Rule 7700 Series, among other things, sets forth the pricing schedule for the ORF, the OTC Bulletin Board, and the Trade Reporting and Compliance Engine Services. On March 1, 2007, FINRA filed a proposed rule change (SR-NASD-2007-018) for immediate effectiveness that deleted certain fee provisions from the FINRA

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

Rule 7700 Series⁵ and amended certain other provisions.⁶ In that filing, NASD Rule 7010(g) was renumbered as NASD Rule 7010, renamed, and amended to apply only to the ORF.⁷ The amendments became operative on March 5, 2007.⁸ As FINRA stated in the filing, the amendments made to the rule language were not intended to modify any of the charges relating to the ORF.

Although there was no intent to modify any charges in connection with reporting transactions to the ORF, the rule language, as amended, omits some securities from the rule because of the definition of "OTC Equity Security" in FINRA Rule 6420. The previous rule, NASD Rule 7010(g), included a catch-all provision that applied a charge of \$0.029/side to the "reporting of all other transactions not subject to comparison." This language included, for example, PORTAL equity securities, which are reported to the ORF pursuant to the PORTAL rules in the FINRA Rule 6630 Series. The term "OTC Equity Security," however, specifically excludes PORTAL securities and restricted securities from the definition.⁹ Thus, by using the defined term "OTC Equity Security," the rule was inadvertently amended to exclude PORTAL equity securities from the scope of the rule.

The proposed rule change would delete the reference to "OTC Equity Security" in FINRA Rule 7710 and clarify that the charge applies to the reporting of transactions in any security, not just OTC Equity Securities, to the ORF that are not subject to comparison through the ORF.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing, June 17, 2009.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,¹⁰ which

⁵ At the time of the rule filing, the FINRA Rule 7700 Series was the NASD Rule 7000 Series. The NASD Rule 7000 Series was renumbered as the FINRA Rule 7700 Series in 2008. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008); see also FINRA Regulatory Notice 08-57 (October 2008).

⁶ See Securities Exchange Act Release No. 55538 (March 27, 2007), 72 FR 15924 (April 3, 2007) (Notice of Filing and Immediate Effectiveness of SR-NASD-2007-018).

⁷ NASD Rule 7010 was later renumbered as FINRA Rule 7710. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008).

⁸ See Securities Exchange Act Release No. 55538 (March 27, 2007), 72 FR 15924 (April 3, 2007) (Notice of Filing and Immediate Effectiveness of SR-NASD-2007-018).

⁹ See FINRA Rule 6420(c), (d).

¹⁰ 15 U.S.C. 78o-3(b)(5).

requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change clarifies the charges assessed with respect to transactions reported to the ORF and correctly reflects FINRA's intent when amending the rule in SR-NASD-2007-018.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and paragraph (f)(2) of Rule 19b-4 thereunder.¹² 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-FINRA-2009-043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2009-043. 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 publicly available. All submissions should refer to File Number SR-FINRA-2009-043 and should be submitted on or before July 21, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-15468 Filed 6-30-09; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF STATE

[Public Notice 6687]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the

¹³ 17 CFR 200.30-3(a)(12).

Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 29 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663-2861.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

February 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement to include the export of technical data, defense services, and defense articles in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and defense articles to Belgium for the manufacture of F101, F110, and F118 aircraft engine parts.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 092-08.

March 23, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed transfer of defense articles or defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles from the United States to Canada in support of the transfer of title of four Telstar commercial communications satellites from Telesat Satellite to Telesat Canada.

The United States Government is prepared to license the transfer of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though

unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 129-08.

March 23, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under Category I of the United States Munitions List sold commercially under a contract in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of 7,106 Bushmaster rifles and technical data for a basic operation and maintenance class for end use by Kementerian Dalam Negeri and the Ministry of Internal Security Kementerian Keselamatan Dalam Negeri of Malaysia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 130-08.

March 30, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed export of defense services and defense articles in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, including technical data, and defense services to Spain for the design, manufacture and delivery of the HISPASAT 1E Commercial Communication Satellite.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,

Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 135-08.

February 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for export of defense services and defense articles in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada and Mexico for the production of various military electrical, electronic, and fiber optic parts and components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 136-08.

February 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of the DF-301E Direction Finding Equipment in France.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 140-08.

March 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am

transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to support the replication of the Have Quick I/II and SATURN Electronic Counter-Counter Measure (ECCM) for integration into Radio Communications Equipment in Germany.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 141-08.

February 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and hardware to India for the manufacture of the Flight Control System for the Light Combat Aircraft for the Indian Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 142-08.

February 12, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles, including

technical data, to support the Global Maintenance and Supply Services (GMASS), the M777A2 Sustainment, and the Mine Resistant Ambush Protected Vehicle Programs in Afghanistan for end-use by U.S. and coalition forces in support of Operation Enduring Freedom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 143-08.

March 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the development and production of the MK 234 NULKA Electronic Decoy Cartridge and the MK 250 NULKA Training Aid for the United States Navy and the Royal Australia Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 144-08.

March 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles, including technical data and defense services, in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles, including technical data, related to the manufacture of Harpoon Weapon System missile canisters and capsules for the Ministries of Defence for the following countries: Australia, Belgium,

Canada, Chile, Egypt, Germany, Greece, India, Indonesia, Israel, Japan, Republic of Korea, Mexico, The Netherlands, Pakistan, Peru, Portugal, Saudi Arabia, Singapore, Spain, Taiwan, Thailand, Turkey, and the United Kingdom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 147-08.

March 13, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles, including technical data to support manufacture of the Korean Commander's Panoramic Sight for the K1 Main Battle Tank for end-use by the Republic of Korea.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 148-08.

February 18, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of the Short Range Interrogator Memory Module and Code Loader in Japan.

The United States Government is prepared to license the export of these items having taken into account political, military,

economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 149-08.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and hardware to Sweden for the manufacture of Primary Hydraulic Flight Control Servo Actuators for the JAS 39 Gripen Aircraft Program for end use by the governments of Austria, Brazil, Chile, Czech Republic, Denmark, Hungary, Malaysia, The Netherlands, Norway, Oman, Philippines, Poland, South Africa, Sweden, Switzerland, and United Kingdom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 150-08.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles, including technical data, for the AVDS-1790 Engine Improvement Program for the Israeli Merkava III Main Battle Tank for end-use by the Government of Israel.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though

unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 151-08.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to South Korea for the manufacture of T700-701C engine parts used in UH-60 Blackhawk helicopters for the Republic of Korea Army.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 152-08.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed agreement for the export of defense articles or defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Greece to provide Operational, Intermediate and Depot level maintenance support for General Electric F110 engines operating in the Hellenic Air Force's F-16 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 153-08.

May 12, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles, including technical data to support development of an Operational Utility Vehicle System and Tactical Support Vehicle and delivery of these defense articles to the United Kingdom Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 001-09.

March 23, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of the E767 Japan AWACS Data Display Group and Ground Support Equipment for the Japan Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 002-09.

March 30, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to Mexico to support the design and construction of auxiliary ships on behalf of the United States Navy and the Military Sealift Command.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 006-09.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Republic of Korea for the manufacture of F100-PW-229 engine parts to be used in the "Korean Next Fighter II Aircraft Program" for the Republic of Korea Air Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 008-09.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of four CH-47 Chinook Helicopters and associated defense services and technical data to the United Arab Emirates Armed Forces General Headquarters.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 009-09.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan for the manufacture of T700-GE-401C engine parts for end use by the Japanese Ministry of Defense in UH-60 Blackhawk and SH-60 Seahawk helicopters that it owns and operates.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 012-09.

March 30, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including

technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of two G550 Command and Control/VIP Aircraft to the Republic of Turkey Ministry of Defense, as well as related defense services and technical data.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 014-09.

March 30, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the manufacture and support of SINGGARS Radio Systems for end-use by the Italian Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 016-09.

March 30, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed agreement for the export of defense articles or defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan to provide continued support for the manufacture of fuel control devices for the Japanese Ministry of Defense's F-15J aircraft.

The United States Government is prepared to license the export of these items having

taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 017-09.

March 12, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for export major defense equipment and associated technical data and defense services in the amount of \$14,000,000 or more.

The transaction contained in the attached certification involves the direct commercial sale of eight P-8I Long Range Maritime Reconnaissance and Anti-Submarine Warfare Aircraft with associated support equipment and spares to the Government of India.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 018-09.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan for the manufacture of the Integrated Digital Electronic Engine Control, the Engine Diagnostic Unit, the Engine Analyzer Unit and the Data Control Unit for the F100-220E engine used in the Japanese Ministry of Defense F-15 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 021-09.

April 3, 2009

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under Category I of the United States Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of 2,745 Ruger firearms such as Single Action Revolvers, Double Action Revolvers, Centerfire and Rimfire Pistols, Bolt Action Rifles, Semi-Automatic Rifles in .22 caliber, Single Shot Rifles, and 1,800 Minor Component Parts for Rifles, Pistols and Revolvers. These firearms and minor components parts are being sold to a firearms distributor for commercial resale in Canada.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Michael C. Polt,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 025-09.

Dated: June 10, 2009.

Robert S. Kovac,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. E9-15554 Filed 6-30-09; 8:45 am]

BILLING CODE 4710-25-P

DEPARTMENT OF STATE

[Public Notice 6685]

Culturally Significant Objects Imported for Exhibition Determinations: "New Amsterdam: The Island at the Center of the World"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et*

seq.), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "New Amsterdam: The Island at the Center of the World," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the South Street Seaport Museum, New York, NY, from on or about September 13, 2009, until on or about January 7, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202/453-8048). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

June 22, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9-15556 Filed 6-30-09; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 6686]

Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 2 p.m. to 4 p.m. on Monday, July 20, 2009, at the U.S. Department of State, 2201 C Street, NW., Room 1107, Washington, DC. The meeting will be hosted by the Acting Assistant Secretary of State for Economic, Energy, and Business Affairs David Nelson and Committee Chair Ted Kassinger. The ACIEP serves the U.S. Government in a solely advisory capacity, and provides advice concerning issues and challenges in international economic policy. The meeting will focus on a discussion about U.S.-India economic relations. Subcommittee reports and discussions will be led by the Economic Empowerment in Strategic Regions

Subcommittee, the Economic Sanctions Subcommittee, and the Investment Subcommittee.

This meeting is open to public participation, though seating is limited. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by Thursday, July 16, their name, professional affiliation, valid government-issued ID number (*i.e.*, U.S. Government ID [agency], U.S. military ID [branch], passport [country], or drivers license [State]), date of birth, and citizenship to Sherry Booth by fax (202) 647-5936, e-mail (BoothSL@state.gov), or telephone (202) 647-0847.

One of the following forms of valid photo identification will be required for admission to the State Department building: U.S. driver's license, U.S. Government identification card, or any valid passport. Enter the Department of State from the C Street lobby. In view of escorting requirements, non-Government attendees should plan to arrive 15 minutes before the meeting begins. Requests for reasonable accommodation should be made to Sherry Booth prior to Monday, July 13th. Requests made after that date will be considered, but might not be possible to fulfill.

For additional information, contact Senior Coordinator Nancy Smith-Nissley, Office of Economic Policy Analysis and Public Diplomacy, Bureau of Economic, Energy and Business Affairs, at (202) 647-1682 or Smith-NissleyN@state.gov.

June 25, 2009.

Sandra E. Clark,

Office Director, Office of Economic Policy Analysis and Public Diplomacy, Department of State.

[FR Doc. E9-15555 Filed 6-30-09; 8:45 am]

BILLING CODE 4710-15-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB's) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was

published on April 23, 2009, vol. 74, no. 77, page 18604. Pursuant to Public Law 104-50, the FAA has implemented an acquisition management system that addresses the unique needs of the agency. This document established the policies and internal procedures for the FAA's acquisition system.

DATES: Please submit comments by July 31, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: FAA Acquisition Management System (FAAAMS) Including ARRA Requirements.

Type of Request: Extension without change of a currently-approved collection.

OMB Control Number: 2120-0595.

Form(s) available at: <http://fast.faa.gov/docs/forms>.

Affected Public: An estimated 15,298 Respondents

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 7.5 hours per response.

Estimated Annual Burden Hours: An estimated 2,003,059 hours annually.

Abstract: Pursuant to Public Law 104-50, the FAA has implemented an acquisition management system that addresses the unique needs of the agency. This document established the policies and internal procedures for the FAA's acquisition system. This collection includes burden requirements per the American Recovery and Reimbursement Act of 2009 (ARRA).

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality,

utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 23, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. E9-15392 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 23, 2009, vol. 74, no. 77, page 18605-18606. This request is a change to FAA Form 5100-127, Operating and Financial Summary, where we will now collect limited statistical information on airport operations. This new information will add 10 lines to the Form and 1 hour to the Forms preparation time. Large, medium, and small hub commercial service airports will be asked to provide this information. A copy of the modified Form is available for public inspection at FAA Docket-2009-0257. This notice is supplementary to the notice of this Airport Grants Program revision published in the **Federal Register** on February 3, 2009 [74 FR 5965]. Additionally, since that notice of revision, the burden for this collection has increased due to new requirements imposed by the American Recovery and Reimbursement Act of 2009 (ARRA).

DATES: Please submit comments by July 31, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION: Federal Aviation Administration (FAA).

Title: Airports Grants Program Including ARRA Requirements.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120-0569.

Forms(s) Forms 5100–100, 5100–101, 5100–108, 5100–126, 5100–127, 5370–1. *Affected Public:* An estimated 1,950 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 9 hours per response.

Estimated Annual Burden Hours: An estimated 86,379 hours annually.

Abstract: The FAA collects information from airport sponsors and planning agencies in order to administer the Airports Grants Program. Data is used to determine eligibility, ensure proper use of Federal Funds, and ensure project accomplishments.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to oir_submission@omh.eop.gov, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 23, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. E9–15390 Filed 6–30–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2004–16860]

Gulf Landing LLC Liquefied Natural Gas Deepwater Port License Surrender

AGENCY: Maritime Administration, DOT.

ACTION: License Surrender Announcement; Notice.

SUMMARY: The Maritime Administration (MARAD) announces the cancellation of all actions related to the license to own, construct and operate a deepwater port issued to Gulf Landing LLC on April 29, 2005. Pursuant to Section 1503(h) of the Deepwater Port Act of 1974, as amended, a deepwater port license may remain in effect until such time as it is either suspended or revoked by the Secretary of Transportation or surrendered by the licensee. The action is taken in response to the applicant's decision to surrender its Deepwater Port License.

DATES: The date of surrender and cancellation of all actions related to this license was effective April 30, 2009.

ADDRESSES: The Docket Management Facility maintains the public docket for this project. The docket may be viewed electronically at <http://www.regulations.gov> under docket number USCG–2004–16860, or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: If you have questions about the Gulf Landing LLC Deepwater Port project, contact Ms. Yvette Fields, Office of Deepwater Ports and Offshore Activities at (202) 366–4839 or Yvette.Fields@dot.gov.

SUPPLEMENTARY INFORMATION: On April 30, 2009, the Maritime Administration received notification from the licensee, Gulf Landing LLC, of the surrender of its license to own, construct and operate a deepwater port for a liquefied natural gas deepwater port (with associated anchorages and pipeline facilities) located 38 miles south of Cameron, Louisiana in South Cameron Block 213. Consequently, the Maritime Administration is terminating all activities relating to the licensure, construction and operation of the proposed Gulf Landing LNG deepwater port. Further information pertaining to this application may be found in the public docket (*see ADDRESSES*).

Authority: 49 CFR 1.66.

By order of the Maritime Administrator.

Dated: June 23, 2009.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–15527 Filed 6–30–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 6, 2009. No comments were received.

DATES: Comments must be submitted on or before July 31, 2009.

FOR FURTHER INFORMATION CONTACT: Jerome Davis, Maritime Administration 1200 New Jersey Avenue, SE., Washington, DC 20590. *Telephone:* 202–366–6088; or *e-mail:* jerome.davis@dot.gov.

Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Voluntary Intermodal Sealift Agreement (VISA).

OMB Control Number: 2133–0532.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of dry cargo vessels.

Form(s): MA–1020.

Abstract: This information collection is in accordance with Section 708, Defense Production Act, 1950, as amended, under which participants agree to provide commercial sealift capacity and intermodal shipping services and systems necessary to meet national defense requirements. Officials at the Maritime Administration and the Department of Defense use this information to assess the applicants' eligibility for participation in the VISA program.

Annual Estimated Burden Hours: 200 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. (Authority: 49 CFR 1.66)

Issued in Washington, DC, on June 25, 2009.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9-15530 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009 0060]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ABOGANTE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2009-0060 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in

that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 31, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009-0060. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ABOGANTE is:

Intended Use: "Day and Night Passenger Charters."

Geographic Region: "California, Oregon and Washington."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Dated: June 23, 2009.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9-15528 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009 0062]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel GAIL ANN.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2009-0062 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 31, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009-0062. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version

of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GAIL ANN is:

Intended Use: "Site seeing tours of the San Diego Bay and surrounding areas, also Lake Tahoe in the future."

Geographic Region: "California, Nevada."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Dated: June 23, 2009.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.
[FR Doc. E9-15529 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Rickenbacker International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the release of 1.795 acres of airport property to reconstruct a rail spur and restore rail

access to the Central Campus of the Rickenbacker Global Logistics Park (GLP). This land was acquired by the Columbus Regional Airport Authority through a Quit Claim Deed (dated September 22, 2003), filed of record in Instrument No. 200401210015232, amended and restated by Quit Claim Deed (dated August 26, 2005), filed of record in Instrument No. 200603220053407, and re-recorded in Instrument No. 200603240055176, Recorder's Office, Franklin County, Ohio, from the United States of America, acting by and through the Secretary of the Air Force, under and pursuant to the Defense Base Closure and Realignment Act of 1990, and delegations and regulations promulgated thereunder. There are no impacts to the airport by allowing the airport to dispose of the property. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the Federal Register on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before July 31, 2009.

FOR FURTHER INFORMATION CONTACT:

Stephanie Swann, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. *Telephone Number:* (734)-229-2945/*FAX Number:* (734)-229-2950. Documents reflecting this FAA action may be reviewed at this same location or at Rickenbacker International Airport, Columbus, Ohio.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property situated in the State of Ohio, County of Franklin, Township of Hamilton, lying in Section 2, Township 3, Range 22, of Congress Lands, being part of the land conveyed to the United States of America, deed of record in Deed Book 1192 Page 231, all records herein of the

Recorder's Office, Franklin County, Ohio and being more particularly described as follows:

(Legal Description of Property)

Beginning, at a northwesterly corner of a 241.695 acre (Tract 2) conveyed to Columbus Municipal Airport Authority by deed of record in Instrument Number 200301020000768, being a common corner to said tract owned by United States of America, and a 8.464 acre tract conveyed as (Fourth Tract, Parcel No. 1) to Building Concept, Inc. by deed of record in Official Record 29946 I20, said point being in the line between Section 1 and Section 2;

Thence the following two (2) courses and distances along the line common to said United States of America tract and said 8.464 acre tract:

1. North 86°49'29" West, a distance of 375.62 feet, to a point;

2. Along a curve to the right, having a central angle of 75°26'08", a radius of 606.69 feet, an arc length of 798.77 feet, a chord which bears North 49°06'26" West, a chord distance of 742.31 feet, to a point in the centerline of Canal Road;

Thence North 23°06'04" East, a distance of 137.88 feet, along the centerline of Canal Road to a point, being a common corner to a 19.042 acre tract conveyed as (Fourth Tract, Parcel No. 2) to Building Concepts, Inc. by deed of record in Official Record 29946 I20;

Thence the following two (2) courses and distances along the line common to said United States of America tract and said 19.042 acre tract:

1. Along a curve to the left, having a central angle of 87°34'08", a radius of 540.69 feet, an arc length of 826.37 feet, a chord which bears South 43°02'26" East, a chord distance of 748.26 feet, to a point;

2. South 86°49'29" East, a distance of 376.62 feet, to a point at the southeasterly corner of said 19.042 acre tract a common corner to said United States of America Tract, being in the line between said Section 1 and 2;

Thence South 04°02'49" West, a distance of 66.01 feet, along the easterly line of said United States of America Tract and said section line to the Point of Beginning, containing 1.795 acres, more or less.

The bearings in the above description are based on the bearings of record in Instrument Number 200301020000768, records of the Recorder's Office, Franklin County, Ohio.

Issued in Romulus, Michigan on May 29, 2009.

Matthew J. Thys,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. E9-15316 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-13-M



Federal Register

Wednesday,
July 1, 2009

Part II

Department of the Treasury
Office of the Comptroller of the
Currency
Office of Thrift Supervision
12 CFR Parts 41 and 571

Federal Reserve System
12 CFR Part 222

**Federal Deposit Insurance
Corporation**
12 CFR Parts 334

**National Credit Union
Administration**
12 CFR Part 717

Federal Trade Commission
16 CFR Part 660

**Procedures To Enhance the Accuracy and
Integrity of Information Furnished to
Consumer Reporting Agencies Under
Section 312 of the Fair and Accurate
Credit Transactions Act; Final Rule;
Guidelines for Furnishers of Information
to Consumer Reporting Agencies;
Proposed Rule**

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 41**

[Docket ID OCC–2008–0023]

RIN 1557–AC89

FEDERAL RESERVE SYSTEM**12 CFR Part 222**

[Docket No. R–1300]

RIN 7100–AD18

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Parts 334**

RIN 3064–AC99

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 571**

[Docket No. OTS–2008–0025]

RIN 1550–AC01

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 717****FEDERAL TRADE COMMISSION****16 CFR Part 660**

RIN 3084–AA94

Procedures To Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); National Credit Union Administration (NCUA); and Federal Trade Commission (FTC).

ACTION: Final rules.

SUMMARY: The OCC, Board, FDIC, OTS, NCUA, and FTC (Agencies) are publishing these final rules to implement the accuracy and integrity and direct dispute provisions in section 312 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) that amended section 623 of the Fair Credit Reporting Act (FCRA). The final

rules implement the requirement that the Agencies issue guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that they furnish to consumer reporting agencies (CRAs) and prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines. These final rules also implement the requirement that the Agencies issue regulations identifying the circumstances under which a furnisher must reinvestigate disputes about the accuracy of information contained in a consumer report based on a direct request from a consumer.

DATES: These rules are effective on July 1, 2010.

FOR FURTHER INFORMATION CONTACT:

OCC: Stephen Van Meter, Assistant Director, Community and Consumer Law Division, (202) 874–5750; Patrick T. Tierney, Senior Attorney, Carl Kaminski, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Malloy T. Harris, Jr., National Bank Examiner, Compliance Policy, (202) 874–4851, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: David A. Stein, Managing Counsel, Amy E. Burke, Senior Attorney, or Jelena McWilliams, Attorney, Division of Consumer and Community Affairs, (202) 452–3667 or (202) 452–2412; or Anne B. Zorc, Counsel, (202) 452–3876, or Kara L. Handzlik, Attorney, (202) 452–3852, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Glenn S. Gimble, Senior Policy Analyst, (202) 898–6865, Division of Supervision and Consumer Protection; Richard M. Schwartz, Counsel, (202) 898–7424, or Richard B. Foley, Counsel, (202) 898–3784, Legal Division; 550 17th St., NW., Washington, DC 20429.

OTS: April Breslaw, Director, Consumer Regulations, (202) 906–6989; Suzanne McQueen, Consumer Regulations Analyst, Compliance and Consumer Protection Division, (202) 906–6459; or Richard Bennett, Senior Compliance Counsel, Regulations and Legislation Division, (202) 906–7409, at 1700 G Street, NW., Washington, DC 20552.

NCUA: Linda Dent or Regina Metz, Attorneys, Office of General Counsel, phone (703) 518–6540 or fax (703) 518–6569, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

FTC: Clarke W. Brinckerhoff and Pavneet Singh, Attorneys, (202) 326–

2252, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The Fair Credit Reporting Act (FCRA), which was enacted in 1970, sets standards for the collection, communication, and use of information bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.¹ In 1996, the Consumer Credit Reporting Reform Act extensively amended the FCRA.² The FACT Act³ further amended the FCRA for various purposes, including improved accuracy of consumer reports.

Section 623 of the FCRA describes the responsibilities of persons that furnish information about consumers (furnishers) to CRAs.⁴ Section 312 of the FACT Act amended section 623 by requiring the Agencies to issue guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that they furnish to CRAs and to prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines (the accuracy and integrity regulations and guidelines). Section 312 also requires the Agencies to issue regulations identifying the circumstances under which a furnisher must reinvestigate disputes concerning the accuracy of information contained in a consumer report based on a direct request from a consumer (the direct dispute regulations). The Agencies are issuing these final accuracy and integrity regulations and guidelines and final direct dispute regulations to satisfy the requirements of section 312 of the FACT Act.

The final rules include the accuracy and integrity regulations, which contain definitions of key terms such as “accuracy,” “integrity,” “direct dispute,” and “furnisher” and require furnishers to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of consumer information provided to a CRA. The final rules also include guidelines concerning the accuracy and integrity of information furnished to CRAs that furnishers must

¹ 15 U.S.C. 1681–1681x.

² Public Law 104–208, 110 Stat. 3009 (Sept. 20, 1996).

³ Public Law 108–159, 117 Stat. 1952 (Dec. 4, 2003).

⁴ Section 623 is codified at 15 U.S.C. 1681s–2.

consider in developing their policies and procedures. The Agencies believe that the final accuracy and integrity rules and guidelines strike an appropriate balance that affords furnishers the flexibility to establish policies and procedures that are appropriate to the nature, size, complexity, and scope of each furnisher's activities while enhancing the accuracy and integrity of consumer information provided to CRAs.

The final direct dispute regulations: Set forth the circumstances under which a furnisher must reinvestigate a consumer's direct dispute; provide exceptions to the requirements imposed; detail the direct dispute address and dispute notice content requirements; specify furnishers' duties after receiving a direct dispute; and establish when a furnisher may deem a direct dispute to be frivolous or irrelevant. The final direct dispute rule is designed to permit direct disputes in virtually all circumstances involving disputes about the accuracy of furnished information typically provided by a furnisher to a CRA. This approach enables consumers to submit a dispute directly to the furnisher (with certain exceptions) when the issue in dispute relates to information for which the furnisher is responsible.

II. Statutory Requirements

A. Accuracy and Integrity Regulations and Guidelines

Section 623(e)(1)(A) of the FCRA requires the Agencies to establish and maintain guidelines for use by each furnisher "regarding the accuracy and integrity of the information relating to consumers" that the furnisher provides to CRAs. In developing the guidelines, section 623(e)(3) directs the Agencies to:

- Identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to CRAs;
 - Review the methods (including technological means) used to furnish information relating to consumers to CRAs;
 - Determine whether furnishers maintain and enforce policies to assure the accuracy and integrity of information furnished to CRAs; and
 - Examine the policies and processes employed by furnishers to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to CRAs.
- The Agencies also are required to update the guidelines as often as necessary.

Section 623(e)(1)(B) of the FCRA requires the Agencies to prescribe

regulations requiring furnishers to "establish reasonable policies and procedures for implementing the guidelines" established pursuant to section 623(e)(1)(A). Section 623(e)(2) of the FCRA provides that the Agencies must consult and coordinate with one another so that, to the extent possible, the regulations prescribed by each Agency are consistent and comparable with the regulations prescribed by each other Agency. These consistent and comparable final rules are being issued following extensive consultation and coordination among the Agencies.

B. Direct Disputes

Section 623(a)(8) of the FCRA directs the Agencies jointly to prescribe regulations that identify the circumstances under which a furnisher is required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer, based on a direct request by the consumer. In prescribing the direct dispute regulations, section 623(a)(8) directs the Agencies to weigh the following specific factors:

- The benefits to consumers and the costs to furnishers and the credit reporting system;
- The impact on the overall accuracy and integrity of consumer reports of any direct dispute requirements;
- Whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any dispute; and
- The potential impact on the credit reporting process if credit repair organizations are able to circumvent the provisions in subparagraph G of section 623(a)(8), which generally states that the direct dispute rules shall not apply when credit repair organizations provide notices of dispute on behalf of consumers.

III. The Agencies' Consideration of the Statutory Accuracy and Integrity Criteria and Direct Dispute Factors

The Agencies published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** in March 2006⁵ in order to obtain information pertaining to the criteria that Congress directed the Agencies to consider in developing the accuracy and integrity guidelines and the factors that Congress directed the Agencies to weigh in prescribing the direct dispute regulations. The ANPR contained detailed requests for comment on ten issues related to the statutory criteria governing the development of the accuracy and integrity guidelines and

on eight issues related to the statutory factors that the Agencies must weigh when promulgating the direct dispute regulations. The Agencies also specifically requested comment on how the issues presented by the ANPR might differ depending on the type of furnisher, the types of information furnished, the frequency with which a furnisher reports information about consumers to CRAs, or the type of CRA that receives the furnished information.

The Agencies collectively received a total of 197 comment letters on the ANPR, including multiple copies of the same letter sent by commenters to more than one Agency. Commenters included depository institutions, other financial services companies, trade associations, consumer reporting and credit scoring companies, a mortgage company, consumer organizations, and individual consumers.

IV. The Notice of Proposed Rulemaking

On December 13, 2007, the Agencies published a notice of proposed rulemaking (NPRM) in the **Federal Register** containing proposed rules to implement section 312 of the FACT Act.⁶ The NPRM summarized key issues identified in the comment letters received on the ANPR concerning accuracy and integrity criteria and on the direct dispute factors.⁷ The proposal contained the section 312 statutory requirement that each furnisher must establish reasonable policies and procedures regarding the accuracy and integrity of the information about consumers that it furnishes to a CRA. The proposal stated that the policies and procedures must be written and be appropriate to the nature, size, complexity, and scope of the furnisher's activities. The proposal provided that each furnisher would have to consider the accuracy and integrity guidelines in developing its policies and procedures and review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

The proposal included an appendix to each Agency's regulations containing accuracy and integrity guidelines that: (1) Set forth the nature, scope, and objectives of a furnisher's policies and procedures; (2) enumerated the accuracy and integrity duties of furnishers under the FCRA; (3) identified the steps that furnishers should take when establishing accuracy and integrity policies and procedures; and (4) detailed specific components that

⁶ 72 FR 70944 (December 13, 2007).

⁷ 72 FR 70947-949 (December 13, 2007).

⁵ 71 FR 14419 (March 22, 2006).

should be addressed in a furnisher's policies and procedures.

The proposal included two approaches for defining the terms "accuracy" and "integrity," terms that are not defined by section 312.⁸ A "Regulatory Definition Approach" and a "Guidelines Definition Approach." The Regulatory Definition Approach included definitions for both terms in regulations. The Guidelines Definition Approach defined the terms in guidelines—rather than regulations—with reference to the objectives that a furnisher's policies and procedures should be designed to accomplish.

Both proposed approaches defined the term "accuracy" to mean that any information that a furnisher provides to a CRA about an account or other relationship with the consumer reflects without error the terms of and liability for the account or other relationship and the consumer's performance and other conduct with respect to the account or other relationship.

The proposed Regulatory Definition Approach provided that information furnished to a CRA could be technically "accurate" yet lack "integrity" if it presented a misleading picture of the consumer's creditworthiness by omitting critical information, such as a credit limit on a revolving credit account. In contrast, the proposed Guidelines Definition Approach provided that furnished information would have "integrity" if it: (1) Is reported in a form and manner that is designed to minimize the likelihood that the information, although accurate, may be erroneously reflected in a consumer report; and (2) is substantiated by the furnisher's own records.⁹ The objectives included in the Agencies' respective appendices also differed in a manner that reflected these alternative definitions.

Both approaches proposed consistent definitions for other key terms such as "furnisher" and "direct dispute."

Finally, the proposal included regulations that would implement section 623(a)(8) of the FCRA, which directs the Agencies jointly to prescribe regulations that identify the circumstances under which a furnisher is required to reinvestigate¹⁰ a dispute

⁸In addition, the Agencies noted in the NPRM that the legislative history of the FACT Act does not resolve how the terms "accuracy" and "integrity" should be defined. See 72 FR 70949–950 (December 13, 2007).

⁹Key components of the definition of "integrity" proposed under the Guidelines Definition Approach were incorporated into the Regulatory Definition Approach as objectives set forth in the proposed guidelines.

¹⁰Section 312 uses the terms "reinvestigate" and "investigate" interchangeably to apply to direct

concerning the accuracy of information about a consumer contained in a consumer report, based on a direct request by the consumer. The proposal specified the circumstances under which a furnisher must investigate a direct dispute; included certain exceptions; set forth requirements regarding a furnisher's address for receiving direct dispute notices; specified the content requirements for direct dispute notices from consumers; and addressed frivolous and irrelevant disputes, which, pursuant to section 623(a)(8)(F) of the FCRA, furnishers are not required to investigate.

In addition, the NPRM requested specific comment on the following issues: The definitions of the terms "accuracy" and "integrity" and their placement in either the regulatory text or guidelines; whether the proposed definition of "accuracy" should include updating information as necessary to ensure that the information furnished is current; whether the proposed definition of "accuracy" is appropriate to the direct dispute rule; whether the proposed direct dispute rules appropriately reflect the relevant statutory considerations or whether a more targeted approach would be more appropriate; whether to permit furnishers to provide oral notice for a direct dispute address; whether certain types of business addresses should be excluded from receiving direct dispute notices; what mechanisms should be required, if any, for informing consumers of their direct dispute rights; how the proposed direct dispute requirements would affect furnishers to smaller and specialty CRAs; and whether the guidelines should incorporate a specific record retention time period.

A more detailed discussion of the provisions of the NPRM is contained in the Section-by-Section Analysis.

V. Overview of the Comments Received in Response to the NPRM

Each agency received the following number of comment letters: OCC—23, Board—25, FDIC—19, OTS—16, NCUA—17, and FTC—27. Many commenters sent copies of the same letter to more than one Agency. The Agencies received comments from a variety of banks, thrifts, credit unions,

disputes. Compare 15 U.S.C. 1681s–2(a)(8)(A) with 15 U.S.C. 1681s–2(a)(8)(E). The Agencies believe that, as applied to section 312, there is no difference in the meaning of these two terms, and, therefore, have used only the term "investigate" in the final regulations and guidelines for ease of comprehension, to provide clarity to consumers who file direct disputes, and to assist furnishers with the implementation of the regulations and guidelines.

credit card companies, mortgage lenders, other non-bank creditors, and trade associations. The Agencies also received comments from consumer organizations and individual consumers.

In general, consumer organizations supported the specificity of the Regulatory Definition Approach while industry commenters favored the flexibility provided by the Guidelines Definition Approach to permit a furnisher to adopt policies and procedures that are suitable to their specific circumstances. Consumer organization and industry commenters also differed in their opinions regarding the level of detail and applicability of the proposed guidelines. Consumer organizations generally supported more detailed guidelines that should apply to all furnishers while industry commenters generally supported less detailed guidelines that do not impose requirements on all furnishers. A number of industry commenters and most consumer organizations generally supported the proposed direct dispute regulations.

The Agencies have carefully considered all comments received and have decided to modify the proposal and adopt the final rules and guidelines as described below in the Section-by-Section Analysis.

VI. Section-by-Section Analysis¹¹

The following describes the three parts of these final rulemaking actions: The accuracy and integrity regulations, the accuracy and integrity guidelines, and the direct dispute regulations.

A. Accuracy and Integrity Regulations

Section __.40 Scope

Section __.40 of the proposal set forth the scope of each Agency's regulations. Each of the Agencies has tailored this section to describe the entities to which its respective subpart applies and have adopted this section in the final rules

¹¹The OCC, Board, FDIC, OTS, and NCUA are placing the final regulations and guidelines implementing section 312 in the part of their regulations that implements the FCRA—12 CFR parts 41, 222, 334, 571, and 717, respectively. For ease of reference, the discussion in the SUPPLEMENTARY INFORMATION section uses the shared numerical suffix of each of these agency's regulations. The FTC also is placing the final regulations and guidelines in the part of its regulations implementing the FCRA, specifically 16 CFR part 660. However, the FTC uses different numerical suffixes that equate to the numerical suffixes discussed in the SUPPLEMENTARY INFORMATION section as follows: Suffix .40 = FTC suffix .1, suffix .41 = FTC suffix .2, suffix .42 = FTC suffix .3, and suffix .43 = FTC suffix .4. In addition, Appendix E referenced in the SUPPLEMENTARY INFORMATION section is the FTC's Appendix A.

without change. The Agencies did not receive comments on this section.

Section __.41 Definitions

Placement of Definitions

As described in section IV of this **SUPPLEMENTARY INFORMATION**, the Agencies proposed two alternative approaches in the NPRM for defining the terms “accuracy” and “integrity”—a Regulatory Definition Approach and a Guidelines Definition Approach. Although the proposed definition of “accuracy” was the same under both alternatives, the two approaches differed with respect to the substance of the definition of “integrity” and the placement of the definitions. The substantive aspects of each approach, and the significant comments the Agencies received on each, are described in the discussion of the definitions later in this section. This portion of the discussion addresses the placement of the definitions which, in the final rules, appear in the regulation text.

Under the proposed Regulatory Definition Approach, the definitions for the terms “accuracy” and “integrity” appeared in the regulation text. In order to be accurate, furnished information would have to reflect without error the terms of and liability for the account or other relationship and the consumer’s performance and other conduct with respect to the account or other relationship. Furnished information would have “integrity” if it did not omit any term, such as a credit limit or opening date, of that account or other relationship, the absence of which could reasonably be expected to contribute to an incorrect evaluation by a user of a consumer report about a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Under the proposed Guidelines Definition Approach, the Agencies identified four objectives pertaining to the “accuracy” and “integrity” of information furnished and placed these objectives in the guidelines, rather than the text of the regulation. Definitions for the terms “accuracy” and “integrity” were incorporated into the first two objectives. The guidelines would have defined “accuracy” in substantially the same manner as under the Regulatory Definition Approach; however, the definition of “integrity” was different from that in the Regulatory Definition Approach. Under the proposed Guidelines Definition Approach, furnished information would have “integrity” if it: (1) Is reported in a form

and manner that is designed to minimize the likelihood that the information, although accurate, may be erroneously reflected in a consumer report; and (2) is substantiated by the furnisher’s own records.

Generally, consumer organizations supported the Regulatory Definition Approach because they believed that locating the definitions in the regulations, rather than the guidelines, would enhance the substantive requirements applicable to furnishers. They believed this, in turn, would result in more accurate consumer reports and improved assessments of consumers’ creditworthiness. One industry commenter also supported this approach, stating that it would ensure that important credit terms are provided by furnishers to CRAs and thus promote correct credit evaluations of consumers by users of consumer reports.

On the other hand, industry commenters generally favored the Guidelines Definition Approach. These commenters preferred a less prescriptive approach enabling furnishers’ policies and procedures to reflect the nature, size, complexity, and scope of their respective business activities.

The Agencies have decided to place the definitions of the terms “accuracy” (§ __.41(a)) and “integrity” (§ __.41(e)) in the text of the final regulations. This approach more clearly establishes that these definitions apply for purposes not only of the guidelines, but also to the requirement in the regulations that furnishers must establish and implement reasonable written policies and procedures regarding the “accuracy” and “integrity” of furnished information. Furthermore, the Agencies note that section 623(a)(8) of the FCRA directs the Agencies jointly to prescribe regulations that identify the circumstances under which a furnisher is required to reinvestigate a dispute concerning the accuracy of information about the consumer contained in a consumer report, based on a direct request by the consumer. In light of section 623(a)(8), the Agencies have determined that the term accuracy should be defined in the text of the regulation.

Some industry commenters expressed concern that placement of the definitions in the text of the regulations would increase the risk of litigation initiated by plaintiffs asserting that furnished information failed to meet the accuracy and integrity standards included in the proposal. To address these concerns, the Agencies have, as was proposed in the NPRM, limited the applicability of defined terms in § __.41, including “accuracy” and “integrity,” to

each Agency’s regulations in subpart E—Duties of Furnishers of Information and the accompanying guidelines in Appendix E. The definitions do not impose stand-alone obligations on furnishers but guide and inform the duties otherwise imposed on furnishers under the regulations. The Agencies’ promulgation of the definitions of the terms “accuracy” and “integrity” in § __.41 of the final regulations does not mean that they intend to use the same definitions in any other context. The Agencies further note that section 623(c) of the FCRA limits private rights of action for a furnisher’s noncompliance with the rules issued pursuant to section 312 of the FACT Act, which include the definitions of “accuracy” and “integrity.”

Accuracy

Both the proposed Regulatory Definition Approach and the proposed Guidelines Definition Approach defined “accuracy” to mean that any information that a furnisher provides to a CRA about an account or other relationship with the consumer reflects without error the terms of and liability for the account or other relationship and the consumer’s performance and other conduct with respect to the account or other relationship.

In the final rules, the Agencies have revised the proposed definition of “accuracy.” Under § __.41(a) of the final rules, “accuracy” means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

- Reflects the terms of and liability for the account or other relationship;
- Reflects the consumer’s performance and other conduct with respect to the account or other relationship; and
- Identifies the appropriate consumer.

This definition differs from the proposed definition in two ways.

First, the phrase “without error” that was included in the proposal has been removed from the definition in the final rules. Industry commenters stated that, in general, the proposed definition of “accuracy” would create an unrealistic standard and that the “without error” standard, in particular, was unworkable. These commenters stated that adopting such a standard would effectively require providing information to a CRA with perfect precision, which the commenters asserted is not feasible and could subject furnishers to criticism and potential litigation risks even for honest mistakes that are promptly corrected.

The Agencies agree that the “without error” standard could be read to imply an expectation that information be reported according to unreasonably high standards. Such an unrealistic and potentially burdensome standard could lead some furnishers to cease or limit their furnishing of information to CRAs or act as an obstacle to entities becoming furnishers. Accordingly, to address the concerns raised by the commenters, the standard has been modified to provide that accuracy means that information furnished “correctly reflects” the terms of and liability for an account or other relationship and other relevant factors. This standard reflects the goal of providing information with a high degree of precision, but provides greater flexibility than the proposed standard and should mitigate unforeseen litigation risk.

The second change from the proposed definition is the addition of a reference to the consumer’s identity in the definition of “accuracy.” In the final rules, “accuracy” means, among other things as noted above, that “information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly * * * identifies the appropriate consumer.” This change makes the regulatory text consistent with section I.(b)(1)(i) of the final guidelines’ objectives, which provides that “[a] furnisher’s policies and procedures should be reasonably designed to * * * furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information: (i) Identifies the appropriate consumer * * *.” The Agencies expect that the addition of this “consumer identity” element to the definition of “accuracy” will reinforce the objectives’ goal of decreasing the incidence of data matching or other errors in which information about one consumer is mistakenly linked to another consumer’s file maintained by the CRAs.

Consumer and public interest organizations advocated that the definition of “accuracy” include the concepts of “completeness” and “integrity.” These commenters noted that the direct dispute rules only require furnishers to investigate disputes regarding the accuracy—and not the integrity—of furnished information. Therefore, excluding the concepts of “completeness” and “integrity” from the term “accuracy” would preclude consumers from directly disputing issues with a furnisher for lack of completeness and integrity.

The Agencies believe that defining “accuracy” without incorporating concepts of “completeness” and “integrity” best comports with the text and structure of section 312 of the FACT Act and the FCRA.¹² The text of section 312 uses the terms “accuracy and integrity” as separate and distinct concepts. A similar observation applies with respect to the use of the term “completeness” in other provisions of the FCRA. The legislative history does not compel a different conclusion. Earlier versions of the legislation that became the FACT Act required the Agencies to prescribe regulations and guidelines regarding the “accuracy and completeness” of information relating to consumers. That language was also contained in the bill passed by the Senate and referred to the Conference Committee. However, the bill reported by the Conference Committee and enacted into law replaced the term “completeness” with “integrity.”¹³

Two industry commenters stated that the final rules should not define “accuracy” at all. One of these commenters noted that neither the FCRA nor the FACT Act defines “accuracy,” and that Congress did not direct the Agencies to do so. This commenter recommended that, instead of defining those terms in this rulemaking action, the Agencies advise furnishers to look to case law for guidance on the meaning of the term “accuracy.”

The Agencies believe that a definition of “accuracy” is important to achieve the purposes of this rulemaking. As a threshold matter, no express statutory direction is needed to allow the Agencies to define terms important to the implementation of section 312 of the FACT Act. Moreover, defining the term “accuracy” will assist furnishers in establishing the required reasonable policies and procedures while reducing uncertainty about their appropriate scope and content. In addition, the definition provides clear direction to consumers and furnishers regarding which issues can be disputed directly with a furnisher under § .43 of the final rules. For these reasons the Agencies believe, and many commenters agreed, that the term “accuracy” should be defined for the purposes of the rules and guidelines implementing section 312 of the FACT Act. Using this definition in § .43 of the rules, however, does not cause it to

¹² See 72 FR 70949–50.

¹³ Compare 149 Cong. Rec. S13990 (Nov. 5, 2003) (bill as passed by the Senate) with 149 Cong. Rec. H12198 (Nov. 21, 2003) (bill as reported by the Conference Committee).

apply for purposes of any other provision of the FCRA or other provisions of the Agencies’ rules.

Consumer organizations and industry commenters raised other issues with the definition of “accuracy.” For example, one industry commenter expressed concern that the scope of the proposed definition of “accuracy” was too broad, and suggested that the Agencies limit the application of this definition to credit reports (and similar reports of financial transactions) so that it would not apply to descriptions of the characteristics of individuals or their employment histories.

Neither the statutory language of section 312 of the FACT Act nor its legislative history supports limiting the scope of “accuracy” to credit reports (and similar reports of financial transactions) so that the definition would not apply to the descriptions of characteristics of individuals or their employment histories. However, to address the commenter’s concern that the proposed definition of “accuracy” was too broad and difficult to apply to an “investigative consumer report,”¹⁴ the Agencies in § .41(c)(4) have excluded from the definition of “furnisher” certain individuals (e.g., a neighbor, friend, or associate who may have knowledge about the consumer) who may provide information to a CRA in this context. The Agencies also note that, under § .43(b)(1)(ii), the direct dispute rules do not apply to a furnisher if the dispute relates to the identity of past or present employers.

In both proposed approaches, the Agencies included a guideline providing that furnishers should update information provided to CRAs as necessary to reflect the current status of the consumer’s account or other relationship. In connection with the proposed definition of “accuracy,” the Agencies asked for comment on whether the definition of “accuracy” should specifically provide that, in order to be “accurate,” furnished information must be updated as necessary to ensure that it is current.

Most industry commenters opposed including any updating standards in the

¹⁴ Section 603(e) (codified at 15 U.S.C. 1681a(e)) defines an “investigative consumer report” to mean a consumer report or portion thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information. However, this information does not include information on a consumer’s credit record obtained directly from a consumer’s creditor or from a CRA that obtained the information directly from a consumer’s creditor or the consumer.

definition of "accuracy." They generally stated that if the final rules require updating, they should specify that updating should be consistent with standard business practices: That is, a furnisher should only be required to update information with its regular submission of data to a CRA. Several industry commenters expressed concern that the updating standard described in the Agencies' request for comment could be read to include a requirement to provide daily updates. These commenters stated that it would be impossible for some furnishers to do this and unnecessarily costly and burdensome for others. One industry commenter suggested that furnishers should be expected to "periodically update" the information, rather than to update information as necessary to ensure that the information is current.

Three commenters stated that the definition of "accuracy" should not include an updating requirement at all because it is implicit in the concept of "accuracy." Two of these commenters noted that an updating requirement already is encompassed within the FCRA and elsewhere in the guidelines.

Consumer organizations stated that the definition of "accuracy" should require that information is updated so that it is, and remains, current.

The Agencies recognize that the nature, size, complexity, and scope of a furnisher's activities affect the type of information it voluntarily provides to a CRA, as well as the frequency with which it updates the information. Given the voluntary nature of the reporting system, the diversity of furnishers, the differences in the types of information furnishers report to CRAs, and the disparities in the frequencies with which furnishers voluntarily update information, the Agencies believe it is more appropriate to follow a less prescriptive approach and address issues related to updating in the guidelines, rather than in the text of the regulations as an element of "accuracy." At the same time, the Agencies believe that the overall accuracy of information is improved when, for information that a furnisher elects to provide to a CRA, it is updated to reflect the current status of an account or relationship. Therefore, section I.(b)(4) of the final guidelines states that a furnisher's policies and procedures "should be reasonably designed * * * to update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including * * * any transfer of an account * * * and * * * any cure of the consumer's failure to

abide by the terms of the account or other relationship."

Integrity

The proposed Regulatory Definition Approach provided that information furnished to a CRA may be technically "accurate" yet lack "integrity" because it presents a misleading picture of the consumer's creditworthiness by omitting critical information, such as a credit limit on a revolving credit account. The proposed Regulatory Definition Approach defined the term "integrity" to mean that any information that a furnisher provides to a CRA about an account or other relationship with the consumer does not omit any term, such as a credit limit or opening date, of that account or other relationship, the absence of which can reasonably be expected to contribute to an incorrect evaluation by a user of a consumer report about a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Under the proposed Guidelines Definition Approach, the definition of "integrity" did not address the omission of any term the absence of which could contribute to an incorrect evaluation of a consumer's creditworthiness by a user of a credit report. Instead, the proposed definition of "integrity" addressed two specific issues pertaining to furnished information. The proposed Guidelines Definition Approach defined "integrity" to mean that any information that a furnisher provides to a CRA about an account or other relationship with the consumer: (1) Is reported in a form and manner that is designed to minimize the likelihood that the information, although accurate, may be erroneously reflected in a consumer report (form and manner provision); and (2) should be substantiated by the furnisher's own records (substantiation provision). The form and manner provision included the following three examples of methods furnishers could use to comply with that provision: Reporting the furnished information with appropriate identifying information about the consumer; reporting the information in a "standardized and clearly understandable form and manner;" and including in the information a date specifying the time period to which it pertained. Thus, in addition to being placed in a different location, the guidelines definition was substantively different from that proposed in the Regulatory Definition Approach.

The final rules place the definition of "integrity" in the text of the regulations, at § __.41(e), and define "integrity" to

mean that information that a furnisher provides to a CRA about an account or other relationship with the consumer:

- Is substantiated by the furnisher's records at the time it is furnished;
- Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and
- Includes the information in the furnisher's possession about the account or other relationship that the relevant Agency has:

- Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and
- Listed in section I.(b)(2)(iii) of the guidelines. Section I.(b)(2)(iii) provides one item on this list: The credit limit, if applicable and in the furnisher's possession.

Most industry commenters recommended that the Agencies adopt the definition of "integrity" in the Guidelines Definition Approach. Many of these commenters objected to the content of the definition proposed in the Regulatory Definition Approach. They said that the definition would create substantial uncertainty about what information must be furnished because furnishers may not know or be able to ascertain how other entities use credit report data. Some of these commenters said that the Regulatory Definition Approach, in effect, would impose on furnishers a burdensome "full-file" reporting requirement in order to satisfy the integrity standard. These commenters indicated that, because users of consumer reports are diverse and may evaluate consumer reports differently, defining the parameters of the information that must be furnished by reference to how third-party users of a consumer report might evaluate a consumer's creditworthiness is an unworkable, unclear, and burdensome standard that would discourage voluntary reporting under the FCRA. These commenters noted, among other things, that most credit scoring models are confidential, and that the wide variety of users of consumer reports exacerbates the difficulty of knowing what information users will consider material. One industry commenter suggested that if the Agencies choose to adopt the Regulatory Definition Approach, they should itemize the specific credit terms they believe must be reported to achieve "integrity." Several industry commenters also

asserted that the Regulatory Definition Approach conflicted with the legislative history of section 312 of the FACT Act because it equated “integrity” with “completeness.”

Consumer organizations generally supported the proposed Regulatory Definition Approach. As a general matter, consumer organizations believed that this approach essentially equated “integrity” with “completeness” and would enhance the requirements applicable to furnishers, the effectiveness of the credit reporting system, and assessments of consumers’ creditworthiness.¹⁵

Substantively, the final rules incorporate, in revised form, the elements of the definition of “integrity” that were included in both the proposed Regulatory Definition Approach and Guidelines Definition Approach. First, the definition of “integrity” in the final rules includes a substantiation provision. Some commenters requested that the regulations include a substantiation requirement, and the Agencies agree that the “integrity” of furnished information depends, in part, on its consistency with the furnisher’s own records. A timing component has been added to the provision in the final rules requiring furnished information to be substantiated by the furnisher’s records at the time it is furnished so that the information provided to a CRA reflects, and is supported by, the furnisher’s records at that time.

Second, the Agencies are adopting the form and manner provision as part of the definition of “integrity” to address omissions and data transmission and similar errors that may lead to information being incorrectly reflected on a credit report. This provision contemplates, for example, that information will be furnished in a form and manner that would permit a CRA to accept data regarding a consumer and link it appropriately to the consumer.

Two industry commenters expressed concern about the phrase “standardized and clearly understandable form,” as used in the examples provided in connection with the guidelines’ definition. These commenters stated that the Agencies should recognize that not every furnisher provides information in the same manner or format. One of these commenters suggested the phrase instead be revised to encourage furnishers to achieve standardization to the extent reasonably possible. The Agencies have not included the phrase “standardized and

clearly understandable form” in the definition of “integrity” but have included it in the objectives at section I.(b)(2)(ii)(B) of the guidelines.

Finally, the Agencies have modified the definition of “integrity” that was proposed under the Regulatory Definition Approach while retaining the key concept that the omission of certain information affects the integrity of that information. In light of the range and diversity of users of consumer reports, the information that such users may find relevant and material, and the use of various proprietary credit scoring models and underwriting methodologies, it could be difficult or impossible for furnishers to predict what information third parties would find relevant or material to make credit or other determinations based on consumer reports. Given these impediments, the Agencies conclude that the proposed regulatory definition of “integrity” would have created an unworkable standard because furnishers cannot be expected to identify all types of information that, if omitted, could reasonably be expected to contribute to an incorrect evaluation of a consumer’s creditworthiness by a user of a consumer report. Accordingly, the Agencies have determined to retain the “material omission” concept that informed the Regulatory Definition Approach in a manner that does not place the burden of making that determination on furnishers.

Under the final rules, in order to satisfy the definition of “integrity,” furnished information must include items in the furnisher’s possession about the account or other relationship only if the relevant Agency has determined that its absence would likely be materially misleading in evaluating a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and has listed that item of information in the Agency’s guidelines. Thus, each Agency, in consultation and coordination with the other Agencies, will determine, and list in its guidelines, the types of information in a furnisher’s possession about a consumer’s account or other relationship that the furnisher will be expected to provide to promote the integrity of the information. This list will be based on the Agency’s determination that the absence of the information would likely be materially misleading in evaluating a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Consistent with this approach, the Agencies have listed in the guidelines the consumer’s credit limit, if applicable and in the furnisher’s possession. A consumer’s credit limit was one of the items used in the proposed regulatory text to illustrate the type of information covered by the standard contained in the definition of “integrity” as proposed.

As the Agencies noted in the NPRM, one key factor for evaluating the creditworthiness of an individual is credit utilization. If a creditor fails to furnish a credit limit for an account, credit evaluators must either ignore credit utilization data in the evaluation model or use a substitute measure for the credit limit, such as the highest balance (the largest amount ever owed on the account). Substituting the highest balance level for the credit limit generally results in a higher estimate of credit utilization because the highest-balance amount is typically lower than the credit limit. A higher credit utilization estimate generally leads, in turn, to a higher perceived level of credit risk for some consumers.¹⁶

Therefore, the revised “integrity” provision requires that furnishers provide a credit limit to a CRA, if applicable and in the furnisher’s possession, in order for the furnished information to have “integrity.” The qualifying phrase reflects the Agencies’ recognition that some credit products may not have a credit limit, in which case it is appropriate for the furnisher not to provide credit limit information because a credit limit would not be “applicable.” However, if the furnisher subsequently establishes a credit limit for the consumer’s account or other relationship, then the furnisher is expected to provide the information with its next regular data transmission to a CRA. Likewise, if a furnisher changes a credit limit for the consumer’s account, then the furnisher also is expected to furnish that change with its next regular data transmission to a CRA. Additionally, a furnisher may have acquired a consumer account or relationship through a sale or transfer, and the credit limit data may not have been provided to the acquiring furnisher. In those instances, a furnisher also would not be expected to provide credit limit information since it is not in its possession. Consistent with the FCRA, under which the furnishing of information about consumers is voluntary, the definition of “integrity”

¹⁵ As discussed above, however, some of these commenters stated that the concept of “integrity” should be included in the definition of “accuracy.”

¹⁶ See Robert B. Avery, Paul S. Calem, Glenn B. Canner, *Credit Report Accuracy and Access to Credit*, *Federal Reserve Bulletin*, Summer 2004, p. 306.

applies only to information that the furnisher elects to provide to a CRA. Furnishers should note that they may be subject to separate obligations to furnish all available information about an account or other relationship.¹⁷

The proposed definition of “integrity” that was included in the Regulatory Definition Approach also included the opening date of an account or other relationship as an example of a type of data that, if omitted, reasonably could be expected to contribute to an incorrect evaluation by a user of a consumer report of a consumer’s creditworthiness. The Agencies do not have sufficient information to determine whether, and under what circumstances, the omission of an account opening date undermines the “integrity” of furnished information. Therefore, the Agencies have not incorporated any reference to account opening dates into the definition of “integrity” in the final rules and have not listed it in section I.(b)(2)(iii) of the guidelines. However, the Agencies are publishing an advance notice of proposed rulemaking in this same issue of the **Federal Register** for the purpose of obtaining information that would assist the Agencies in determining whether, and under what circumstances, it would be appropriate to propose any additions to the guidelines, including whether and under what circumstances the Agencies should include an account opening date as an item furnishers would be expected to provide to a CRA to promote the integrity of the information.

Direct Dispute

Proposed § __.41(e) defined “direct dispute” to mean a dispute submitted directly to a furnisher by a consumer concerning the accuracy of any information contained in a consumer report relating to the consumer.

The Agencies have revised the definition of “direct dispute” to mean a

dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer. The definition in the final rules includes a parenthetical clause that clarifies that a “furnisher” also includes a debt collector that provides information to a CRA. This clarifying language has been added in response to a number of commenters that stated information furnished by a collection agency, which may be collecting a debt on behalf of another furnisher, should be covered by the direct dispute regulation.

Section 623(a)(8)(A) of the FCRA requires the Agencies to jointly prescribe regulations that identify the circumstances under which a furnisher shall be required to investigate a direct dispute. This is accomplished in part through the definition of “direct dispute.” Under the final rules, a direct dispute includes only a dispute concerning the accuracy of information contained in a consumer report that pertains to an account or other relationship that the furnisher has or had with the consumer. This revision addresses comments made by several industry commenters that expressed concern that the scope of the proposed direct dispute definition was too broad. They suggested limiting the definition of “direct dispute” to include only those disputes about information in a consumer report that relate to information provided by the furnisher, rather than disputes about any information contained in the report.¹⁸

The Agencies note that the phrase “consumer report,” as used in the definition of “direct dispute,” includes a “file disclosure” from a CRA to a consumer.¹⁹

Furnisher

Proposed § __.41(c) defined the term “furnisher” to mean an entity other than

an individual consumer that furnishes information relating to consumers to one or more CRAs. The proposed definition of “furnisher” excluded entities that provide information to a CRA solely to obtain a consumer report under sections 604(a) and (f) of the FCRA, which, respectively, enumerate the circumstances under which a CRA may provide a consumer report and prohibit persons from obtaining or using consumer reports for impermissible purposes.

The final regulations at § __.41(c) define “furnisher” to mean an entity that furnishes information relating to consumers to one or more CRAs for inclusion in a consumer report. The definition also provides that an entity is not a furnisher when it:

- Provides information to a CRA solely to obtain a consumer report in accordance with sections 604(a) and (f) of the FCRA;
- Is acting as a CRA as defined in section 603(f) of the FCRA;
- Is a consumer to whom the furnished information pertains; or
- Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer’s character, general reputation, personal characteristics, or mode of living in response to a specific request from a CRA.

The final rules continue to exclude from the definition of “furnisher” entities that provide information to a CRA solely to obtain a consumer report in accordance with sections 604(a) and (f) of the FCRA. As discussed in the NPRM, users of consumer reports may provide information about consumers to CRAs to obtain such reports, but not for the purpose of having that information included in consumer reports. For this reason, although the user’s request for the report may be reflected in the consumer report as an inquiry, furnishing information related to such an inquiry is not subject to the final regulations and guidelines. The final rules revise the wording of the definition to make clear that an entity is a “furnisher” only when it furnishes information for purposes of inclusion in a consumer report. The final rules are intended to avoid discouraging entities that use consumer reports from obtaining or using consumer reports for permissible purposes.

The Agencies also have added three other exclusions from the definition of “furnisher” in response to comments indicating that the proposed definition was too broad. For example, one

¹⁷ Furnishers that provide information about consumers to CRAs related to mortgage loans also may be subject to requirements imposed by Freddie Mac, Fannie Mae, and the Federal Housing Administration. See Fannie Mae Servicing Guide, Part I, section 304.09 and Part VII, section 107, Freddie Mac Service Guide, section 55.4: Reports to credit repositories; and the Federal Housing Administration Servicing Handbook, section 4330.1(c) (Rev-5) (incorporating by reference the Fannie Mae Servicing Guide). Further, the Department of Housing and Urban Development has defined “Mortgages contrary to good lending practices” to include a mortgage or a group or category of mortgages entered into by a lender and purchased by Fannie Mae or Freddie Mac where it can be shown that a lender engaged in a practice of failing to report monthly on borrowers’ repayment history to credit repositories on the status of each loan purchased by Fannie Mae or Freddie Mac that a lender is servicing. 24 CFR 81.2(b).

¹⁸ While the final definition of direct dispute pertains to information about an account or other relationship that the furnisher has or had with the consumer rather than whether the furnisher provided the information, in response to these comments, the Agencies also have added an exception to the circumstances under which a furnisher must investigate a direct dispute. Section __.43(b)(1)(vi) of the final rule states that the investigation requirements do not apply to a furnisher if the dispute relates to information provided to a CRA by another furnisher.

¹⁹ Under section 609(a) of the FCRA, CRAs are required to provide certain information to consumers upon request. CRAs generally provide such disclosures in a different format than a consumer report they provide to a third party, and refer to them as “file disclosures,” rather than consumer reports.

industry commenter urged the Agencies to exempt resellers of consumer report information because those entities already are subject to dispute requirements under section 611(f) of the FCRA. The final rules include an exemption for entities acting in the capacity of a “consumer reporting agency” as defined in section 603(f) of the FCRA. This exemption covers “resellers” acting in that capacity because, under section 603(u) of the FCRA, resellers are a type of CRA.

In addition, the Agencies note that increasing numbers of consumers are self-reporting certain types of information, such as rent or utility payments, to alternative consumer reporting agencies. To address this development and encourage consumers to provide information to CRAs, the final rules explicitly exempt from the “furnisher” definition in § __.41(c)(3) a consumer who provides to a CRA information pertaining to himself or herself.

Finally, the Agencies have added an exception that excludes from the definition of “furnisher” a neighbor, friend, or associate of a consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer’s character, general reputation, personal characteristics, or mode of living in response to a specific request from a CRA (excepted persons). This new exception parallels the types of information that are collected in connection with an “investigative consumer report” as described in section 603(e) of the FCRA. The Agencies believe that this exception is necessary to avoid disrupting the information collection processes that have been established for creating investigative consumer reports. These excepted persons play a crucial role by providing information used in connection with matters such as insurance applications and employment-related background checks.

Identity Theft

The Agencies proposed to define “identity theft” as having the same meaning as in the FTC’s regulations at 16 CFR 603.2(a). Section 603.2(a), which was adopted pursuant to section 111 of the FACT Act,²⁰ defines the term “identity theft” to mean “a fraud committed or attempted using the identifying information of another

person without authority.”²¹ This definition also is used in the interagency regulations implementing section 114 of the FACT Act, relating to identity theft prevention, detection, and mitigation programs. The Agencies received no comments on the definition of “identity theft” and adopt the definition without change in the final rules.

Section __.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information

Policies and Procedures

Proposed § __.42(a) stated that each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information about consumers that it furnishes to a CRA. The proposal provided that the policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnisher’s activities. The final rules retain this provision without change.

Most industry commenters supported the Agencies’ proposal to permit each furnisher the flexibility to adopt policies and procedures suited to their individual circumstances, but several industry commenters opposed the requirement that furnishers establish “written” policies and procedures. One industry commenter stated that not all community banks have written policies and procedures for reporting customer data. Three industry commenters suggested that some furnishers should be allowed to meet the “writing” requirement by simply acknowledging, where applicable, that the furnisher is reporting data in the Metro 2 format, the consumer data reporting industry’s standard electronic format for submitting information to CRAs. One industry commenter stated that requiring written policies and procedures was reasonable and would not be unduly burdensome. Consumer organizations strongly supported the proposed requirement that policies and procedures be “written.”

²¹ See 16 CFR 603.2(b) for the FTC’s definition of “identifying information.” The FTC’s definition of “identifying information” includes any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any: Name, social security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number; unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; unique electronic identification number, address, or routing code; or telecommunication identifying information or access device (as defined in 18 U.S.C. 1029(e)).

The final rules retain the requirement that furnishers’ policies and procedures be written because the Agencies have concluded that it is necessary both to ensure effective implementation of the final rules and to enable the Agencies to assess furnishers’ compliance with the rules. The Agencies do not expect that the requirement for written policies and procedures will be unduly burdensome, especially since, under the guidelines, a furnisher may incorporate any of its existing policies and procedures that are relevant and appropriate. In response to commenters’ suggestions that a particular approach to the policies and procedures be deemed sufficient, the Agencies note that whether any particular set of policies and procedures are adequate to satisfy the rule, including the extent to which any particular guideline should be reflected in such policies and procedures, depends upon the nature, size, complexity, and scope of the furnisher’s activities.

Guidelines

Proposed § __.42(b) stated that each furnisher must consider the accuracy and integrity guidelines in developing its policies and procedures and incorporate those guidelines that are appropriate. Section __.42(b) is adopted without change in the final rules. The Agencies note that furnishers should consider the guidelines in the context of the nature, size, complexity, and scope of their activities and incorporate the guidelines that are appropriate to promote the accuracy and integrity of the information about consumers that they provide to CRAs.

A number of consumer organizations stated that furnishers should be required to implement all of the guidelines. As discussed in the NPRM, the Agencies recognize that there is substantial diversity among furnishers with respect to their structure, operations, and the types of business they conduct. The Agencies believe that a “one-size-fits-all” approach that requires all furnishers to implement all of the guidelines would not appropriately reflect these differences. For that reason, the final rules include, at § __.42(a), a requirement that a furnisher’s policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnisher’s activities, which permits furnishers to tailor their policies and procedures to their business activities. The Agencies expect, for example, that the written policies and procedures for a small retail entity will differ substantially from, and be significantly less complex than, those of

²⁰ Section 111 of the FACT Act provides for a definition of the term “identity theft,” and authorizes the FTC to refine that definition. See section 603(q)(3) of the FCRA; 15 U.S.C. 1618a(q)(3).

a multi-billion dollar financial services company.

Reviewing and Updating Policies and Procedures

Proposed § __.42(c) stated that each furnisher must review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness. Section __.42(c) is adopted without change in the final rules.

Industry commenters expressed concern with the potential burden that could be imposed by the requirement to review policies and procedures periodically. One industry commenter recommended that annual reviews of policies and procedures be described as a best practice, rather than a requirement in the regulation. On the other hand, consumer organizations stated that the regulations should require all furnishers regularly to review and update their policies and procedures. These commenters added that the Agencies should require large furnishers to conduct annual audits, furnish information in the standard reporting format, and update their technology on a regular basis.

The Agencies have concluded that the requirement for a furnisher to review policies and procedures periodically and to update them as necessary is essential to ensure their continued effectiveness. Section __.42(c) does not impose an audit requirement on a furnisher to conduct an official examination and verification of consumer accounts and records regarding its policies and procedures. However, the Agencies do expect a furnisher to be able to demonstrate to its regulator that it has established and implemented policies and procedures consistent with the final rules. The Agencies also expect that a furnisher would engage in a periodic review of its policies and procedures when there is a significant substantive change in its business plan or furnishing activities, or when it has identified significant deficiencies in the accuracy or integrity of the information it has provided to CRAs. A furnisher also may choose to review its policies and procedures periodically when it engages in a general review of FCRA compliance or general compliance with consumer protection laws and regulations.

B. Accuracy and Integrity Guidelines

The proposed accuracy and integrity guidelines appeared in the appendix to the appropriate part of each Agency's proposed regulations. In the introductory language to the proposed guidelines, the Agencies encouraged

voluntary furnishing of information about consumers to CRAs, reflecting the recognition that the voluntary system of consumer reporting produces substantial benefits for consumers, users of consumer reports, and the economy as a whole. The introduction also reminded furnishers that § __.42 of the proposed regulations would require each furnisher (1) to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information about consumers that it furnishes to CRAs and (2) to consider the guidelines in developing those policies and procedures.

The introduction to the guidelines is adopted in the final rules substantially as proposed, with the addition of a sentence that reminds furnishers that § __.42 also requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

Several industry commenters objected to the use of the term "ensure" in the guidelines. These commenters asserted that, instead of expecting furnishers to "ensure" that reporting is free from errors or other defects, it would be more appropriate for the Agencies to promulgate regulations that require furnishers to have policies and procedures reasonably designed to maximize the accuracy of information furnished. The commenters argued that it would be sufficient that a furnisher's policies and procedures be reasonably designed to accomplish the objectives listed. In response to these comments, the Agencies have removed the "ensuring" language and substituted language indicating that furnishers should reasonably design their policies and procedures to achieve specified objectives.

Section I—Nature, Scope, and Objectives of Policies and Procedures Nature and Scope

The proposed Nature and Scope section noted that § __.42(a) of the proposed rule requires that a furnisher's policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In the final guidelines, this provision is retained without change. Additionally, the proposed nature and scope section provided three examples of what a furnisher's policies and procedures should reflect: The types of business activities in which the furnisher engages; the nature and frequency of the information the furnisher provides to CRAs; and the

technology used by the furnisher to furnish information to CRAs. This language has been revised in the final guidelines to make clear that while the examples of the nature and scope provisions are not mandatory, they are factors that a furnisher should consider when developing its policies and procedures.

Objectives

The proposed Objectives section of the guidelines provided that a furnisher should have written policies and procedures reasonably designed to accomplish the specified objectives. The proposal set forth alternative lists of specified objectives for the Regulatory Definition Approach and the Guidelines Definition Approach, and the wording of some of the proposed objectives in the guidelines was related to the alternative approaches for construing the term "integrity" that the Agencies proposed.

In connection with the proposed Regulatory Definition Approach, the first two objectives of the guidelines provided that a furnisher should have written policies and procedures reasonably designed to ensure that the information it furnishes about accounts or other relationships with a consumer accurately identifies the appropriate consumer; accurately reports the terms of those accounts or other relationships; accurately reports the consumer's performance and other conduct with respect to the account or other relationship; and is designed to ensure that the information it furnishes about accounts or other relationships with a consumer avoids misleading a consumer report user as to the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Under the proposed Guidelines Definition Approach, definitions of "accuracy" and "integrity" were incorporated into the first two objectives. Thus, the proposed guidelines provided that a furnisher should have written policies and procedures reasonably designed to ensure that the information it furnishes about accounts or other relationships with a consumer is accurate. The guidelines defined "accuracy" to mean that any information that a furnisher provides about an account or other relationship with the consumer to a CRA reflects without error the terms of the account or other relationship and the consumer's performance and other conduct with respect to the account or other relationship.

Additionally, under the proposed Guidelines Definition Approach, the guidelines provided that a furnisher's written policies and procedures should be reasonably designed to ensure that the information it furnishes about accounts or other relationships with a consumer is furnished with integrity. The guidelines defined "integrity" to mean that any information that a furnisher provides to a CRA about an account or other relationship with the consumer is:

- Reported in a form and manner that is designed to minimize the likelihood that the information, although accurate, may be erroneously reflected in a consumer report, for example, by ensuring that the information is: (a) Reported with appropriate identifying information about the consumer to which it pertains; (b) reported in a standardized and clearly understandable form and manner; and (c) reported with a date specifying the time period to which the information pertains; and

- Substantiated by the furnisher's own records.

The third proposed objective under both approaches stated that a furnisher's policies and procedures should ensure that the furnisher conducts reasonable investigations of consumer disputes about the accuracy or integrity of information in consumer reports and takes appropriate actions based on the outcome of such investigations.

The fourth proposed objective under both approaches stated that a furnisher should have written policies and procedures reasonably designed to ensure that the furnisher updates information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including: (a) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and (b) any cure of the consumer's failure to abide by the terms of the account or other relationship.

The fifth proposed objective under the Regulatory Definition Approach stated that the information a furnisher provides about accounts or other relationships with a consumer should be reported in a form and manner that is designed to minimize the likelihood that the information, although accurate, may be erroneously reflected in a consumer report, for example, by ensuring that the information is reported with appropriate identifying information about the consumer to which it pertains, in a standardized and clearly understandable form and manner, and with a date specifying the

time period to which the information pertains.

The sixth proposed objective under the Regulatory Definition Approach stated that the information a furnisher provides about accounts or other relationships with a consumer should be substantiated by the furnisher's own records. The fifth and sixth proposed objectives under the Regulatory Definition Approach incorporated the two-part definition of "integrity" used in the Guidelines Definition Approach.²²

The final guidelines have four objectives. The first two objectives address how information should be furnished with "accuracy" and "integrity," terms that are defined in the regulations at §§ .41(a) and (e), respectively, and described earlier in this Section-by-Section Analysis.

The first objective states that a furnisher's policies and procedures should be reasonably designed to promote the furnishing of information about accounts or other relationships with a consumer that is accurate, such that the information:

- Identifies the appropriate consumer;
- Reflects the terms of and liability for those accounts or other relationships; and
- Reflects the consumer's performance and other conduct with respect to the account or other relationship.

This first objective is substantially similar to what the Agencies proposed, but has been revised to conform to the definition of "accuracy" that has been adopted in § .41(a) of the regulations.

The second objective has been revised to conform to the final definition of "integrity" that has been adopted in § .41(e) of the regulations and incorporates language that was proposed in the fifth and sixth objectives of the Regulatory Definition Approach and the second objective of the Guidelines Definition Approach.

The third objective provides that a furnisher's policies and procedures should be reasonably designed to promote the conduct of reasonable investigations of consumer disputes and the taking of appropriate actions based on the outcome of such investigations. This objective is similar to an objective included in both the proposed Regulatory Definition Approach and the proposed Guidelines Definition Approach.

²² Comments received regarding the definitions of "accuracy" and "integrity" and their placement in either rules or guidelines and the Agencies' responses to the comments are discussed earlier in this SUPPLEMENTARY INFORMATION.

The fourth and final objective provides that a furnisher's policies and procedures should be reasonably designed to promote the updating of the information furnished as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

- Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and
- Any cure of the consumer's failure to abide by the terms of the account or other relationship.

The Agencies do not expect that furnishers should update information any more frequently than already is required by section 623(a)(2) of the FCRA.

The final objective related to updating is substantively the same as what the Agencies proposed.

One industry commenter expressed concern that, under the proposal, the obligations of an account seller with respect to updating account information are unclear. This commenter stated that once an account is sold, the seller has no ability to update the account to reflect its current status, beyond noting that the account has been transferred. This commenter stated that the obligation to prevent future problems with providing information to a CRA about an account that was sold must rest with the acquiring party, not the selling party. The Agencies expect furnishers to provide information to a CRA prior to the transfer of an account to a third party consistent with the furnisher's policies and procedures regarding accuracy and integrity. However, the Agencies do not expect that after transferring an account to a third party a furnisher would update the current status of the account beyond providing information to a CRA that the account has been transferred.

Another industry commenter stated that the proposal could be viewed as requiring furnishers to update information regularly based on every type of event that may occur following a charge-off of an account. This commenter stated that furnishers typically cease to routinely furnish information about an account at the time of a charge-off. The commenter noted that although most furnishers will, as appropriate, update information provided to CRAs at the time a charge-off is paid in full or a settlement is reached after charge-off, many furnishers do not report interim changes based on a payment schedule agreed to as part of recovery efforts, nor do they report a revised status based on bankruptcy proceedings that take place after a charge-off. This commenter

stated that the final rules should make clear that furnishers do not have a duty to report changes to account status once regular reporting ceases, provided that the data furnished was accurate at the time it was furnished.

The Agencies expect that, to the extent that a consumer cures a failure to abide by the terms of the account or relationship, a furnisher should, consistent with section I.(b)(4) of the guidelines, provide an update of the cured status to a CRA. For example, if a consumer pays off the full balance owed on a charged-off account, a furnisher should provide an update to the CRA with the furnisher's next regular reporting cycle that the account has a zero balance. A furnisher would not, however, have to request that the CRA delete the information that the account was a charge-off.

Proposed Section II—Accuracy and Integrity Duties of Furnishers Under the FCRA

Proposed section II of the guidelines reminded furnishers of their statutory duties relating to the accuracy and integrity of the information about consumers they provide to CRAs. It stated that a furnisher's policies and procedures should address compliance with all applicable requirements imposed on the furnisher under the FCRA and listed certain of those requirements, including the duty to investigate direct disputes as required by proposed § .43 and section 623(a)(8) of the FCRA. It also listed requirements such as the duty to provide to CRAs corrections or additional information necessary to make furnished information complete and accurate under the circumstances specified under section 623(a)(2) of the FCRA.

A number of commenters objected to proposed section II of the guidelines by stating that the summarized list of FCRA requirements would have created uncertainty regarding furnishers' obligations under the FCRA. The Agencies have removed proposed section II from the final guidelines in response to these comments and have renumbered subsequent sections accordingly. Additionally, in section III.(m) of the final guidelines, the Agencies have included, as a specific component that a furnisher's policies and procedures should address, "[c]omplying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations."

Section II—Establishing and Implementing Policies and Procedures

The proposed guidelines identified three steps that furnishers should take when establishing and implementing accuracy and integrity policies and procedures. First, a furnisher should identify its practices or activities that can compromise the accuracy and integrity of information about consumers furnished to CRAs. A furnisher could satisfy this step by, for example:

- Reviewing its existing practices and activities;
- Reviewing historical records relating to accuracy or integrity or to disputes, or other information relating to the accuracy and integrity of information provided by the furnisher to CRAs and the types of errors, omissions, or other problems that may have affected the accuracy and integrity of such information about consumers; and
- Obtaining feedback from CRAs, consumers, the furnisher's staff, or other appropriate parties.

As outlined above, the second clause of this proposed guideline encouraged furnishers, among other things, to "review historical records relating to accuracy or integrity of disputes." Some commenters noted that, for some accounts (e.g., purchased accounts), such historical records may not be available. In response to these comments, the Agencies have revised the second clause to clarify that it is referring only to a furnisher's review of historical records of its own account activities.

The third clause of the proposed guideline encouraged furnishers to obtain feedback from CRAs, consumers, the furnisher's staff, or other appropriate parties. A number of commenters objected to this element of the guideline on the grounds that it would cost furnishers a fee to obtain information from CRAs, and that the CRAs did not always provide information requested by furnishers. These commenters also were concerned that furnishers would be required to survey consumers to obtain the relevant feedback, which, they stated, would be another costly undertaking.

With respect to this third clause, the Agencies have revised the final guidelines to encourage furnishers to consider any feedback they may receive from CRAs, consumers, or other appropriate parties. There is no requirement that furnishers affirmatively seek out such information, but the Agencies expect furnishers to review any such feedback in their possession, including reports or "score

cards" that furnishers may receive from a CRA regarding dispute histories processed through communication channels such as e-OSCAR.²³

The fourth clause of the final guideline does recommend, however, that furnishers take affirmative action to obtain feedback from their staff in order to identify practices or activities of the furnisher that can compromise accuracy or integrity.

The final guideline also includes a fifth clause, which states that, when establishing and implementing policies and procedures, a furnisher should consider their potential impact on consumers. Consideration of these impacts should result in increasing the accuracy and integrity of consumers' information provided by furnishers to CRAs.

The Agencies proposed that the second step that a furnisher should take when establishing and implementing accuracy and integrity policies and procedures is to evaluate the effectiveness of its existing policies and procedures regarding the accuracy and integrity of information about consumers furnished to CRAs and consider whether additions or modifications to the policies and procedures or the implementation of such policies and procedures are necessary. Commenters raised no issues with respect to this provision, and it is adopted without change in the final guidelines.

The Agencies proposed that a furnisher's third step should be to evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information about consumers to CRAs, and how those methods may affect accuracy and integrity, and determine whether changes to those methods should be made to enhance the accuracy and integrity of that information. Commenters raised no issues with respect to this provision, and it is adopted without change in the final guidelines.

Section III—Specific Components of Policies and Procedures

The proposed guidelines described specific components that should be addressed in a furnisher's policies and procedures. These components included:

- Establishing and implementing a system for furnishing information about

²³ e-OSCAR is a Web-based system that permits furnishers and CRAs to create and respond to consumer credit history disputes and to send "out-of-cycle" credit history updates to CRAs. See <http://www.e-oscar.org/about.htm> (last visited March 3, 2009).

consumers to CRAs that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

- Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to CRAs.
- Ensuring that the furnisher maintains its own records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that may be subject to a direct dispute.
- Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to CRAs, such as by implementing standard procedures, verifying random samples, and conducting regular reviews of information provided to CRAs.
- Training staff that participates in activities related to the furnishing of information about consumers to CRAs to implement the policies and procedures.
- Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy and integrity of information about consumers furnished to CRAs to ensure compliance with the policies and procedures.
- Furnishing information about consumers to CRAs following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other debts, in a manner that prevents re-aging²⁴ of information, duplicative reporting, or other problems affecting the accuracy or integrity of the information furnished.
- Attempting to obtain the information listed in § .43(d) (direct dispute notice content requirements) from a consumer before determining that the consumer's dispute is frivolous or irrelevant.
- Ensuring that deletions, updates, and corrections furnished to CRAs are reflected in business systems to avoid furnishing erroneous information.
- Conducting investigations of direct disputes in a manner that promotes the efficient resolution of such disputes.

²⁴ Re-aging of an account occurs when an account is sold or transferred to a third party that resets the account opening date to the date the account was received by the third party. Re-aged accounts may result in adverse credit information staying on a consumer's credit report longer than what is permissible by the FCRA, which for accounts that are placed in collection or charged off is typically no more than seven years. See section 605 of the FCRA.

- Ensuring that technological and other means of communication with CRAs are designed to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy and integrity of information contained in consumer reports.
- Providing CRAs with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the CRA properly to identify the consumer.
- Conducting a periodic evaluation of its own practices, CRA practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy and integrity of information furnished to CRAs.

Commenters raised few issues about the content of the proposed components, and most are adopted without change in the final guidelines. However, the Agencies have adopted some technical and other changes to the proposed components, as described below.²⁵

Most significantly, the Agencies have removed from the final guidelines the component encouraging a furnisher to obtain the information listed in proposed § .43(d) of the regulations (direct dispute notice content requirements) from a consumer before determining that the consumer's dispute is frivolous or irrelevant. The Agencies have determined that adoption of this component is inconsistent with section 623(a)(8) of the FCRA, which, among other things, provides that a furnisher must notify the consumer of a determination that a dispute is frivolous or irrelevant, and that a dispute would be considered frivolous or irrelevant when a consumer does not provide sufficient information to investigate the disputed information.

Some commenters suggested that the proposed component relating to furnishing information after mergers and other transactions should more specifically direct furnishers to (1) instruct CRAs to delete accounts after sale or transfer to decrease the incidence of duplicate accounts and (2) follow

²⁵ For the reasons discussed above, and in response to commenters' suggestions, the Agencies have removed the language recommending that a commenter "ensure" a particular result where it appeared in the specific components. The Agencies agree that this terminology is less appropriate for guidelines than language focused on the matters that furnishers' policies and procedures should address.

industry standard reporting guidelines not to change account numbers, ID numbers, portfolio types, or account opening dates. Some commenters noted that the problems of duplicative reporting and re-aging of account information are common for accounts that have been sold or placed with debt collectors. Section III.(g) of the final guidelines encourages furnishers to provide information about consumers to CRAs following acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems similarly affecting the accuracy or integrity of the information furnished. The final rules use the broader term "obligations" rather than "debts," as was proposed, because acquired or transferred information may relate to not only debts that arise from agreements, but also other obligations such as court-ordered judgments. The Agencies believe that it is sufficient for a furnisher to address these issues in its policies and procedures, as applicable, in a manner it determines will be effective and appropriate to the nature, size, complexity, and scope of its activities.

With respect to the third proposed component, which focused on maintaining relevant records, the Agencies requested comment on whether a specific time period for recordkeeping should be incorporated in the final regulations.

Most industry commenters opposed any new recordkeeping requirements. However, two industry commenters stated that they would not oppose guidelines governing the length of time furnishers should retain records in truncated formats, so long as the standard did not apply to original documents. One industry commenter requested that the Agencies clarify in the final rules that any recordkeeping requirement would not require a furnisher to maintain data other than data it would maintain in the normal course of business. This commenter stated that the final rules should require only that record retention practices be reasonable (and not require a furnisher to maintain records indefinitely).

Consumer organizations supported the addition of a recordkeeping requirement. These commenters generally recommended that the Agencies require records to be kept, at a minimum, as long as information about an account or other relationship with a consumer is furnished to a CRA. These commenters stated that if furnishers fail to keep records to substantiate furnished information, they should report the results of a dispute as

unverifiable and instruct the CRA to delete the information.

The Agencies have addressed the recordkeeping issue by evaluating both the need for additional recordkeeping requirements and the potential adverse consequences of imposing such requirements. First, in their experience assisting consumers with disputes, the Agencies have found that the vast majority of consumer disputes involve recent transactions with furnishers and that furnishers generally have records available to perform reasonable investigations of the disputes. Because of this, the Agencies believe that any benefits from adopting the extended recordkeeping requirement proposed by consumer organizations would likely be outweighed by the significant administrative and cost burdens such a requirement would impose on furnishers. Such a recordkeeping requirement also might create an incentive for furnishers to cease reporting information to CRAs, which would adversely affect the quality of the credit reporting system.

The final rules do not impose any additional recordkeeping requirements on furnishers, and the final guidelines at section III.(c) pertaining to the maintenance of records has been adopted without substantive change. As noted in the NPRM, and adopted in section III.(c) of the guidelines, a furnisher's policies and procedures should address maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirements, for example, recordkeeping requirements contained in regulations implementing the Truth in Lending Act, the Equal Credit Opportunity Act,²⁶ or any other agency-specific requirement.²⁷

C. Final Regulations Concerning Direct Disputes

Section __.43 Direct Disputes

The third component of this rulemaking comprises the Agencies' final regulations implementing section 623(a)(8) of the FCRA, which directs the Agencies jointly to prescribe regulations that identify the circumstances under which a furnisher is required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on a consumer, based

on a direct request of a consumer. The statute sets forth procedural and other requirements applicable to such reinvestigation.

As noted in the NPRM, a number of furnishers have indicated that they already voluntarily investigate direct disputes as a matter of good customer relations and sound business practices. The Agencies encourage all furnishers, as a best practice, to conduct voluntary investigations of consumer disputes and enhance the accuracy and integrity of the information about consumers they provide to CRAs.²⁸ As noted above, the accuracy and integrity guidelines adopted by the Agencies contemplate that furnishers' policies and procedures will address the reasonable investigation of all consumer disputes, whether or not legally required. The guidelines state that conducting such investigations (and taking any appropriate remedial actions) should be an objective of furnishers' accuracy and integrity policies and procedures.

Section __.43(a) General Rule

The proposed general rule required a furnisher to investigate a direct dispute if it relates to:

- The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;
- The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the reported credit limit on an open-end account;
- The consumer's performance or other conduct concerning a credit account or other debt with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount

of a payment made, or the date an account was opened or closed; or

- Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living attributed to the furnisher on the consumer report.

Section __.43(a) of the final rules differs from the proposal in two respects. First, the Agencies have revised the introductory language of the provision to state that a furnisher must conduct a "reasonable investigation" of a direct dispute if it relates to one of the enumerated circumstances. The Agencies have added the term "reasonable" because it is consistent with courts' interpretation of a similar duty imposed on furnishers that receive a notice of dispute from a CRA.²⁹ In the Agencies' view, a furnisher's investigation resulting from a direct dispute would be required to meet the same standard of reasonableness as it would if the notice of dispute were received through a CRA. Accordingly, this revision clarifies the nature of furnishers' direct dispute reinvestigation duties, consistent with suggestions made by some commenters.

Second, the final direct dispute rule clarifies, in response to commenters' suggestions, that debt collectors that are furnishers are subject to the rules. The final rules add a parenthetical clause to the definition of "direct dispute" to explicitly cover debt collectors.³⁰

²⁹ See *Johnson v. MBNA America Bank, N.A.*, 357 F.3d 426 (4th Cir. 2004); *Schaffhausen v. Bank of America, N.A.*, 393 F.Supp.2d 853 (D. Minn. 2005).

³⁰ An industry commenter representing debt collectors raised concerns about a potential conflict between the Fair Debt Collection Practices Act (FDCPA) and the § __.43 direct dispute rule as it applies to debt collectors. The direct dispute rule requires furnishers of information to CRAs to report the results of a direct dispute to the consumer (§ __.43(e)(3)) or notify the consumer if the furnisher determines the dispute is frivolous or irrelevant (§ __.43(f)(2)). Section 805(c) of the FDCPA provides that if a consumer has notified a debt collector in writing that "the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate with the consumer with respect to such debt" (with some exceptions not applicable to the § __.43 direct dispute rule). The concern raised by the commenter is that if a consumer has written the debt collector to cease communication, but at some future time, or at the same time, submits a direct dispute about information the debt collector has provided to a CRA, the debt collector may risk violating the FDCPA prohibition on contacting the consumer when it provides the notices required by the § __.43 direct dispute rule. The purpose of the notices required by the direct dispute rule is either to report the results of a direct dispute to the consumer or to notify the consumer if the furnisher determines the dispute is frivolous or irrelevant.

Continued

²⁶ See 12 CFR 226.25(a) and 12 CFR 202.12(b).

²⁷ See, e.g., 12 CFR 563.170(c) (savings associations must retain accurate and complete records of all business transactions) and OTS Examination Handbook § 310 (savings associations should retain original business transaction records until the savings association has two regular examinations and has resolved any supervisory matters raised in the examinations).

²⁸ The Agencies note that many entities, including depository institutions and their affiliates, also investigate disputes about information they furnish to CRAs that consumers raise through the consumer complaint processes established by the Agencies. See generally Board, "How do I file a Complaint?," <http://www.federalreserveconsumerhelp.gov/complaintinfo.cfm?info=1> (last visited March 3, 2009); FDIC, "How to file a Written Complaint," <http://www.fdic.gov/consumers/questions/consumer/complaint.html> (last visited March 3, 2009); OTS, "How to Resolve a Consumer Complaint" (May 2008), <http://www.ots.treas.gov/docs/4/480924.pdf> (last visited March 3, 2009); and OCC, "Assistance for Customers of National Banks" (April 2005), <http://www.occ.gov/customer.pdf> (last visited March 3, 2009).

The final direct dispute rules are designed to permit direct disputes in virtually all circumstances involving disputes about the accuracy of furnished information typically provided by a furnisher to a CRA. The Agencies believe that the approach adopted by the final rules enables consumers to submit a dispute directly to the furnisher (with certain exceptions) when the issue in dispute relates to information pertaining to the consumer's account or other relationship with that furnisher.

A number of industry commenters supported the general approach of the direct dispute proposal. A few industry commenters suggested that the direct dispute provision should be narrower than the proposed rule, such as by limiting the direct dispute right to disputes related to identity theft. The final rules do not narrow the types of disputes that a furnisher must investigate. The Agencies have concluded that the broader approach of the proposal and final rules is more consistent with the statutory considerations that the Agencies must weigh pursuant to section 623(a)(8)(B) of the FCRA, including whether direct contact with a furnisher would likely result in the most expeditious resolution of direct disputes. The Agencies believe that the expeditious dispute resolutions likely to be afforded by a direct dispute right should not be limited to a narrow class or limited types of disputes. Also, it may be impossible for a consumer to tell whether an error is the result of identity theft or some other cause.

Consumer organizations urged the Agencies to require furnishers to communicate to consumers the process for filing a direct dispute with the furnisher and to provide such information on their Web sites. The direct dispute rule-writing authority, at section 623(a)(8)(A) of the FCRA, does not include establishing a requirement for furnishers to notify consumers about the process for filing a direct dispute. However, the Agencies encourage furnishers, as a best practice, to provide consumers with appropriate information regarding the process for filing a direct dispute, for example by posting such information on their Web sites, as applicable. In addition, the Agencies note that section 609(c)(2) of the FCRA

Contemporaneously with the publication of this final rule, the FTC is publishing an advisory opinion stating that a notice provided to the consumer solely for the purpose of complying with the § 43 direct dispute rule (the FTC rule is 16 CFR 660.4), without conveying any other message, does not violate section 805(c) of the FDCPA. In addition, the Agencies will enforce section 805(c) of the FDCPA consistent with such advisory opinion.

requires the FTC to promulgate, and CRAs to disseminate with their provision of file disclosures to consumers, a "General Summary of Consumer Rights." When the FTC next updates the General Summary of Consumer Rights to reflect the additional rights provided to consumers by the FACT Act and its implementing rules,³¹ it will include consumers' direct dispute rights in the summary.

Section 43(b) Exceptions

The proposed exceptions related primarily to information with respect to which any consumer dispute would be more appropriately directed to the CRA, such as information derived from public records, which may be obtained directly from public sources,³² and information about requests for consumer reports ("inquiries").

A consumer report may include identifying information about a consumer (e.g., name, address), trade line information (e.g., name of creditor, payment history, loan amount), past and present employer information, and public record information (e.g., information received from courts or other governmental authorities that are related to bankruptcies, judgments, or liens). Any given furnisher is the source of some, but not all, of the information included in a consumer report. The Agencies believe that a furnisher should be responsible for investigating disputes only about information regarding an account or other relationship between the furnisher and the consumer. The standard appropriately balances the benefits to consumers with the costs of furnishers as required by section 623(a)(8)(B)(i) of the FCRA. Accordingly, the proposal stated that a furnisher would have to investigate direct disputes only with respect to the types of information that it typically provides to CRAs. In most cases, the information subject to the proposed direct dispute rule would be a part of a furnisher's trade line entry or entries on a consumer report.

Proposed § 43(b)(1) excepted from the general investigation requirement any direct dispute that relates to:

- The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the

³¹ The first update of that Summary (16 CFR 698, Appendix F) was published on November 30, 2004 (69 FR 69788-789).

³² The public records exception applies only to information "derived" by the CRA from public records. It would not exempt a consumer's dispute concerning the accuracy of a furnisher's reference to a particular account being included in bankruptcy, for example.

furnisher, as provided in § 43(a)(1),³³ such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

- The identity of past or present employers;³⁴
- Inquiries or requests for a consumer report;
- Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher having a relationship with the consumer); or
- Information related to fraud alerts or active duty alerts.

Commenters generally supported these exceptions and the final regulation adopts these exceptions without substantive change.

In response to comments, the Agencies are including one additional exception. A number of commenters suggested that a furnisher should have to investigate only information that it provides to a CRA and not information provided by third parties that may be compiled and reported by a CRA. In this regard, the Agencies note that a furnisher would not likely have access to third party information that would be necessary to perform the investigation. Accordingly, the Agencies have added a new exception at § 43(b)(1)(vi), which states that the general direct dispute investigation requirement does not apply to information provided to a CRA by another furnisher.

Proposed § 43(b)(2) also excepted from the investigation requirement any direct dispute if the notice of dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization (CRO) as defined in 15 U.S.C. 1679a(3),³⁵ or an

³³ A direct dispute that relates both to identifying information and a consumer's liability for a credit account or other debt with the furnisher, such as in cases of identity theft, must be investigated by a furnisher pursuant to § 43(a)(1).

³⁴ For this category of information concerning the identity of past or present employers, the Agencies believe that direct contact by the consumer would be unlikely to result in the most expeditious resolution of an employer identity-related dispute. For example, consumer reports sometimes contain certain "employment history" information, which is typically obtained from sources other than employers (such as credit applications). In those cases, an identified employer would be unable to correct disputed information because it was provided by another source.

³⁵ Under this provision of the Credit Repair Organizations Act, the term "credit repair organization"—means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—(i) improving any consumer's credit record, credit history, or credit rating; or (ii)

entity that would be a CRO but for 15 U.S.C. 1679a(3)(B)(i), which excludes tax-exempt section 501(c)(3) organizations. This proposed exception was derived directly from an exception set forth in the statute.³⁶

Many industry commenters noted that it is very difficult to determine with certainty whether a dispute is prepared or otherwise assisted by a CRO. These commenters also noted that the narrow scope of the proposed CRO exception would subject the furnishers to litigation risks. To remedy this problem, these commenters requested that the CRO exception be modified to apply whenever a furnisher reasonably believes the dispute has been submitted by, prepared on behalf of the consumer by, or submitted on a form supplied to the consumer by, a CRO.

The Agencies agree that it would be unnecessarily restrictive to require furnishers to determine with certainty that a CRO participated in the preparation or submission of a dispute. Such a standard would not accomplish the purpose of the statutory exception. Thus, the § 43(b)(2) CRO exception has been revised to incorporate a "reasonable belief" standard.

Section 43(c) Direct Dispute Address

Section 623(a)(8)(D) of the FCRA requires a consumer to provide a direct dispute notice "at the address specified" by the furnisher. The Agencies proposed to provide guidance about how this address should be specified by furnishers and effectively communicated to consumers.

Accordingly, proposed § 43(c) stated that a furnisher must investigate a direct dispute only if a consumer submits a direct dispute notice to the furnisher at:

- The address of the furnisher provided by a furnisher and set forth on a consumer report relating to the consumer (e.g., on the consumer file disclosures CRAs are required to provide to consumers under section 609(a) of the FCRA);
- An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or
- Any business address of the furnisher, if the furnisher has not so specified and provided an address for submitting direct disputes.

³⁶ providing advice or assistance to any consumer with regard to any activity or service described in clause (i).

³⁶ See 15 U.S.C. 1681s-2(a)(8)(G).

Thus, a consumer always would be able to submit a direct dispute to the appropriate address of the furnisher appearing on the consumer report. The consumer also would be able to submit a direct dispute to any other business address of the furnisher but only if the furnisher has not separately specified an address for receiving notices of direct disputes on a consumer report or by other written or electronic communication. A furnisher choosing to specify an address for direct dispute notices would have to do so in a manner that is both reasonably understandable and designed to call the consumer's attention to the fact that the address is the one to use for submitting direct disputes about the accuracy of information in a consumer report. The Agencies also noted in the proposal that a furnisher that specifies an address for this purpose will not be deemed to have specified an address for purposes of section 623(a)(1)(B) of the FCRA, relating to the general duty to provide accurate information to the CRAs. The final rules adopt the proposed direct dispute address provision at § 43(c).

Section 43(c)(3) of the NPRM would have required a furnisher to investigate a direct dispute submitted by a consumer at any business address of the furnisher if it had not specified and provided an address pursuant to proposed § 43(c)(2). Some commenters stated that this obligation would be burdensome and may delay efficient resolution of the consumer's dispute. In response to these comments, the final rules only require a furnisher to investigate a direct dispute submitted by a consumer to any of its business addresses if the furnisher did not either (1) provide a direct dispute address that is set forth on a consumer report relating to the consumer or (2) clearly and conspicuously specify a direct dispute address and provide it to the consumer either in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher).

The Agencies specifically requested comment on whether there are circumstances under which it would not be appropriate for a consumer to submit a direct dispute notice to the address of the furnisher set forth on the consumer report, and on whether proposed § 43(c)(3) should exclude certain types of business addresses, such as a business address that is used for reasons other than for receiving correspondence from consumers or business locations where business is not conducted with consumers.

Consumer organizations generally recommended that a direct dispute

should be accepted at any business address of a furnisher in all circumstances. The Agencies note that the language of section 623(a)(8)(D) states that a consumer " * * * shall provide a dispute notice directly to [a furnisher] at the address specified by the [furnisher] for such notices. * * * " Permitting consumers to use any business address of a furnisher would not be consistent with this statutory provision.

Most industry commenters stated that it would be appropriate only to receive direct disputes at the address a furnisher specifies for that purpose. Some of these commenters also stated that, at a minimum, a furnisher should not have to respond to direct disputes if the CRA supplies the wrong address on the consumer report. Industry commenters opposed the idea that direct disputes should be accepted "at any business address" of the furnisher, noting that such a requirement would be extremely difficult to implement, produce inefficient resolutions of consumer disputes, and be costly.

The Agencies believe that it will benefit consumers and be operationally feasible to allow consumers to submit a direct dispute notice to the address of the furnisher specified on the consumer report (or otherwise specified by the furnisher). The Agencies understand that in a large majority of cases, the consumer report includes an address supplied by the furnisher.³⁷ In addition, the Agencies believe that allowing consumers to submit direct dispute notices to the address of the furnisher set forth on the consumer report will increase the likelihood that the consumers will know where to send that notice (because it will appear on the same document containing the disputed information) and will encourage consumers to obtain and review their

³⁷ As noted in the proposal, allowing consumers to submit direct dispute notices to the address of the furnisher set forth on the consumer report is consistent with existing Federal and some State laws because these laws already impose related obligations. Section 611(a)(6)(B)(iii) of the FCRA requires the CRA to provide, upon the consumer's request, the business name and address, and phone number if reasonably available, of any furnisher the CRA contacts in connection with information reinvestigated in response to a consumer complaint filed with the CRA. California law requires that, upon request of the consumer, the CRA must provide the consumer with the "names, addresses and, if provided by the sources of information, the telephone numbers identified for customer service for the sources of information" (emphasis added). Cal. Civil Code § 1785.10(c). It is the Agencies' understanding that CRAs commonly include the furnisher's business name, address, and telephone number on the consumer report (where the furnisher provides it) so that consumers know how to contact the furnisher about a dispute upon receipt of the consumer report without the need to request that information from the CRA.

consumer reports prior to submitting a notice to a furnisher. As the Agencies noted in the proposal, a furnisher will not be in violation of this provision for failure to investigate a dispute submitted to the address set forth on the consumer report if that address is incorrect due to an error by the CRA and does not reflect any business address of the furnisher.

The final rules also permit a consumer to submit a direct dispute notice to any business address of the furnisher, but only if the furnisher has not specified an address for receiving notices of direct disputes on a consumer report or by other written or electronic notice to the consumer. Thus, furnishers can avoid the burden of having to accept notices of disputes at any business address simply by specifying a direct dispute address for such purpose to be provided to consumers on a consumer report or by other written or electronic notice to the consumer.

The Agencies also requested comment on whether § __.43(c)(2) should be amended to permit furnishers to notify consumers orally of the address for direct disputes, and on whether, and, if so, how an oral notice can be provided clearly and conspicuously. A majority of industry commenters and consumer organizations stated that oral notice of a direct dispute address should not be permitted. These commenters noted that written notices of an address provide more certainty that the direct disputes process will work appropriately for furnishers and consumers. In response to these comments, the final rules require written notifications to consumers of a direct dispute address.

Section __.43(d) Direct Dispute Notice Contents

Section 623(a)(8)(D) of the FCRA provides that a furnisher is not required to investigate a dispute unless a consumer provides the furnisher with a notice of dispute that:

- Identifies the specific information that is being disputed;
- Explains the basis for the dispute; and
- Includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.

Proposed § __.43(d) implemented section 623(a)(8)(D) of the statute by requiring that a notice of dispute include:

- The name, address, and telephone number of the consumer;
- Sufficient information to identify the account or other relationship that is in dispute, such as an account number;

- The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

- All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute, such as a copy of the consumer report that contains the allegedly inaccurate information, a police report, a fraud or identity theft affidavit, a court order, or account statements.

The final direct dispute notice content requirement is adopted as proposed with two substantive changes. First, the final rules merge the proposed provisions requiring that the notice include the name, address, and telephone number of the consumer and sufficient information to identify the account or other relationship in dispute. Revised § __.43(d)(1) now provides that a dispute notice must include “[s]ufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable.” The Agencies note that, in most circumstances, address and telephone number information will be readily available to the furnisher, and to require a consumer to provide it again before the furnisher will begin its investigation will result in unnecessary delay. The Agencies also note that some consumers may not have an address or telephone number. For these reasons, consumer identifying information must be provided only if applicable and to the extent necessary to identify the account or relationship that is the subject of the dispute. Consumers will have to provide information sufficient for furnishers to inform them of the results of an investigation.

The second substantive change occurs in one of the examples in § __.43(d)(3) of supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. The proposal stated that such documentation may include a copy of the consumer report that contains the allegedly inaccurate information. Upon further review, the Agencies determined that the example should be revised to recommend that the dispute include “a copy of the relevant portion” of such a consumer report because the provision of an entire consumer report may raise privacy concerns for consumers.

Although commenters generally supported § __.43(d) as proposed, several industry commenters said that the Agencies should require consumers to indicate that a dispute is a “direct dispute” submitted under the FCRA.

Some industry commenters also suggested that the Agencies issue a model direct dispute complaint form, with some advocating that consumers be required to use the model complaint form. The Agencies decline to adopt these suggestions because such requirements would cause otherwise valid disputes to be rejected as frivolous or irrelevant due solely to the consumer’s failure to meet a technical requirement that probably would be unknown to the consumer.

Section __.43(e) Duty Of Furnisher After Receiving a Direct Dispute Notice

As an implementation aid for furnishers and consumers, the final rules add a new provision at § __.43(e) that incorporates the FCRA’s section 623(a)(8)(E) statutory duties required of furnishers after receiving a direct dispute notice. With one clarification discussed below, the addition of this section tracks the statutory language of section 623(a)(8)(E). Pursuant to § __.43(e) of the final rules, after receiving a valid dispute notice from a consumer, the furnisher must:

- Conduct a reasonable investigation with respect to the disputed information;
- Review all relevant information provided by the consumer with the dispute notice;
- Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) of the FCRA (15 U.S.C. 1681i(a)(1)) within which a CRA would be required to complete its action if the consumer had elected to dispute the information under that section; and
- If the investigation finds that the information reported was inaccurate, promptly notify each CRA to which the furnisher provided inaccurate information of that determination and provide to the CRA any correction to that information that is necessary to make the information provided by the furnisher accurate.

Section 623(a)(8)(E)(i) of the FCRA requires a furnisher to conduct an investigation with respect to the disputed information. The final rules at § __.43(e)(1) require that the furnisher must conduct a reasonable investigation. As discussed above in connection with § __.43(a), the inclusion of this reasonableness standard is consistent with how courts have interpreted the nature of a furnisher’s duty to conduct other investigations of disputes under the FCRA.

Section __.43(e)(3), among other things, states that a furnisher must report the results of the direct dispute

investigation to the consumer. The Agencies deem that it is permissible to report the results of the investigation to the consumer by mail, or electronically if the consumer consents, in accordance with the identifying information supplied by the consumer.

Pursuant to § .43(e)(4), if a furnisher's investigation finds that information it provided to a CRA was inaccurate, the furnisher must promptly notify each CRA to which the furnisher provided the inaccurate information. Additionally, the furnisher must provide to such CRAs any correction necessary to make the information accurate. Therefore, if the furnisher provided incorrect information to one or more CRAs, the furnisher would comply with this provision of the final rules by indicating to the CRA that the prior information was inaccurate, and by providing the corrected information. A furnisher's investigation may reveal that, despite being furnished accurately, information in dispute was not properly reflected on a consumer report. After reaching such a conclusion, a furnisher should notify the consumer that the results of its investigation confirm that the information is not properly reflected on the consumer report obtained from the consumer; it would not be adequate in these circumstances for a furnisher simply to notify a consumer that its investigation indicates that it provided accurate information to a CRA. In this situation, the Agencies strongly encourage furnishers, as a best practice, to suggest that the consumer contact the relevant CRA to obtain a correction.³⁸

Section .43(f) Frivolous or Irrelevant Disputes

Section 623(a)(8)(F) of the FCRA provides that a furnisher is not required to investigate a dispute that a furnisher reasonably determines to be frivolous or irrelevant. The statute states that a frivolous or irrelevant dispute includes situations involving:

- The failure of a consumer to provide sufficient information to investigate the disputed information; or
- The submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or on

³⁸ Furnishers also are encouraged to provide consumers with the Summary of Rights under the Fair Credit Reporting Act issued by the FTC pursuant to section 609(c) of the FCRA, although this is not required by the FCRA or these final rules. This step would be particularly helpful to consumers in circumstances in which a consumer received the inaccurate consumer report information from a source other than a CRA, such as from a potential lender. In such cases, the consumer may not have received the Summary of Rights in connection with the consumer's review of that information.

behalf of the consumer, either directly to the furnisher or through a CRA under section 623(b) of the FCRA, with respect to which the furnisher already completed its investigation duties.

Proposed § .43(e) incorporated the statutory provisions, including identifying these two types of frivolous or irrelevant disputes, using wording consistent with the statute. The final rules adopt these provisions as proposed at §§ .43(f)(1)(i) and (ii).

Section 623(a)(8)(F) specifies the two situations described above, but does not limit frivolous or irrelevant disputes solely to those two situations. The Agencies proposed to include a third situation when a furnisher could deem a dispute to be frivolous or irrelevant. Under proposed § .43(e)(1)(iii), a dispute would be considered frivolous or irrelevant if the furnisher is otherwise not required to investigate it under the regulation.³⁹ This provision was intended to clarify furnishers' duty to investigate direct disputes and their responsibilities when no such investigation is required. Under the proposed provision, consumers in this situation would receive notice from the furnisher that their dispute was deemed frivolous or irrelevant, including the reasons for such determination, as required by the FCRA in sections 623(a)(8)(F)(ii) and (iii).⁴⁰

After additional consideration, the Agencies in the final rules revised this third situation in which a direct dispute may be deemed to be frivolous or irrelevant. Section .43(f)(1)(iii) of the final rules provides that a dispute qualifies as frivolous or irrelevant where "the furnisher is not required to investigate the direct dispute because one or more of the exceptions [to the direct dispute investigation duty] applies." This provision is intended to clarify that consumers will receive notice that their dispute will not be investigated because one of the exceptions applies, without requiring furnishers to provide such notices for consumer disputes that either (1) do not meet the definition of "direct dispute" or (2) do not relate to the matters

³⁹ For example, under proposed § .43(b)(2), a furnisher would not be required to investigate a direct dispute that is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization. Thus, such a dispute would be frivolous or irrelevant under proposed § .43(e)(1)(iii).

⁴⁰ 15 U.S.C. 1681s-2(a)(8)(F)(ii) and (iii). Those provisions of the FCRA generally set out a furnisher's responsibilities regarding the notice it must provide to a consumer once it determines that a dispute is frivolous or irrelevant.

described in § .43(a) that would trigger a direct dispute investigation.⁴¹

Proposed § .43(e)(2) incorporated the FCRA's requirement, at section 623(a)(8)(F)(ii) of the statute, that a furnisher must notify a consumer of its determination that a dispute is frivolous or irrelevant not later than five business days after making the determination. Proposed § .43(e)(3) likewise incorporated from section 623(a)(8)(F)(iii) of the FCRA the content requirements for a notice of determination that a dispute is frivolous or irrelevant. The proposal required such notices to include the reasons for the determination and identify any information required to investigate the disputed information. These two provisions are adopted in the final rules without change at §§ .43(f)(2) and (3) respectively.

One industry commenter recommended that the Agencies make clear that the frivolous or irrelevant dispute provision includes a list of non-exclusive examples and that there may be other reasons why a dispute could be frivolous or irrelevant. An industry commenter recommended revising the rule text regarding the two examples of frivolous or irrelevant disputes that are provided for by statute to track the language of the statute and make clear that those examples are unconditional exceptions to the direct dispute investigation requirement. The Agencies agree with these commenters and have revised the regulation to provide that § .43(f)(1) is a non-exclusive list of three types of frivolous or irrelevant disputes. The Agencies acknowledge that a furnisher is not required to investigate a direct dispute if the furnisher reasonably determines that the dispute is frivolous or irrelevant for other reasons.

One industry commenter suggested that limits should be placed on how far back in time a furnisher should be required to investigate a dispute (for example, a limit based on a record retention period). The Agencies decline to deem a dispute frivolous or irrelevant because it involves older records that, for instance, a furnisher may no longer have readily available or be required to retain. The Agencies believe that the age of records underlying a dispute should

⁴¹ For example, a furnisher that reasonably believes a dispute was submitted by a credit repair organization would need to provide a notice to the consumer that the dispute is frivolous or irrelevant. In contrast, a furnisher would not have to provide a notice to the consumer if the consumer submits a dispute about information pertaining to an account with a different furnisher that was provided to a consumer reporting agency by that other furnisher, since such a dispute would not meet the definition of "direct dispute."

not be the sole factor used by a furnisher to reasonably determine that a dispute is frivolous or irrelevant.

One industry commenter believed that the addition of the proposed third example to § 43(e)(1)(iii), that would have deemed a dispute to be frivolous or irrelevant if the furnisher is not required to investigate the direct dispute, would create confusion and unnecessary compliance burdens. As discussed above, the Agencies have revised § 43(f)(1)(iii) and other provisions in a manner that relieves furnishers from having to provide frivolous or irrelevant dispute determination notices for disputes that do not meet the definition of "direct dispute" or do not relate to matters that would trigger a direct dispute investigation duty.

Another industry commenter recommended that the Agencies clarify that, unless a consumer identifies an additional problem with an account or provides additional information regarding an existing dispute, the furnisher should not be required to send another frivolous or irrelevant dispute determination notice to the consumer. Similarly, another commenter stated that the Agencies should permit furnishers to refuse to investigate disputes from consumers who have "abused the process." The Agencies note that section 623(a)(8)(F)(i) of the FCRA deems disputes to be frivolous or irrelevant if they lack sufficient information or are duplicative. As required by section 623(a)(8)(F)(ii) of the FCRA, a furnisher must provide a consumer with a notice that the furnisher has determined that a dispute is frivolous or irrelevant.

VII. Regulatory Analysis

A. Paperwork Reduction Act

Notice of Action on NPRM

In conjunction with the NPRM, the OCC, FDIC, OTS, NCUA, and FTC submitted the information collection requirements contained therein to OMB for review under the PRA. In response, OMB filed comments with each of these Agencies in accordance with 5 CFR 1320.11(c). The comments indicated that OMB was withholding approval at that time. These Agencies were directed to examine public comment in response to the NPRM and describe in the preamble to the final rule how these Agencies have maximized the practical utility of the collection and minimized the burden. An explanation of how these Agencies have responded to OMB and the public's comments has been provided elsewhere in the preamble to this final rule.

Comment Summary

Of the comments received in response to the NPRM, four industry commenters specifically addressed PRA burden and an additional five industry commenters generally addressed burden issues. Some commenters noted that if the final rule would require furnishers to engage in certain activities in response to a direct consumer dispute, the number of disputes received from consumers would likely increase significantly. Commenters also noted that the Summary of Rights under the FCRA⁴² (currently provided to consumers) instructs consumers to direct their disputes to the CRA that provided them with a copy of their file, which may explain why most disputes are directed to CRAs.⁴³ It is reasonable to assume that changes to the disclosures made by CRAs to consumers (due to the changes the FTC will make to the Summary of Rights to include information about consumers' section 312 direct dispute rights) will likely increase the number of disputes furnishers receive directly from consumers.

Accuracy of Estimates

One industry commenter questioned the Agencies' estimates. The commenter stated that, until furnishers begin implementing the proposal, it will be impossible to determine whether the Agencies' estimates to implement the final rule are understated. In addition, the commenter stated that, until a final rule is published, it is impossible to estimate the time required to comply with its requirements. The commenter further stated that it is "probably" unreasonable to estimate that it will take only 5 minutes to prepare and send a notice since it is likely to take much longer to review and investigate a dispute. The Agencies acknowledge that furnishers are likely to spend more than 5 minutes reviewing and investigating disputes received directly from consumers. The estimated PRA disclosure burden per notice published in the NPRM represented strictly the 5 minutes it would take a furnisher to prepare and distribute each notice; but it did not include the time required to review and investigate a dispute. However, given that each notice will be

⁴² See section 609(c) of the FCRA (15 U.S.C. 1681g(c)).

⁴³ Commenters' reporting of the extent to which furnishers currently receive direct disputes varied, and in the case of financial institutions, the size of the institution may be a factor. One industry commenter noted that a small portion of disputes currently come directly from consumers. However, another industry commenter indicated that community bankers report that, on average, 40 percent of disputes are received directly from consumers.

consumer-specific, and that the amount of automation used to send each notice will vary based on each dispute, the Agencies have decided to re-estimate the average time furnishers will devote to preparing and sending notices. The Agencies have increased the estimated burden for preparing and sending each notice from 5 minutes to an average of 14 minutes per dispute to prepare and send a notice to a consumer. Our estimate of 14 minutes per dispute is based upon an estimate of the average time required to respond to three different types or categories of frivolous or irrelevant disputes. For purposes of estimating paperwork burden, we assume that disputes based on form letters from credit repair organizations will make up 25 percent of all frivolous or irrelevant disputes and, on average, furnishers will devote 8 minutes to each notice. We assume that duplicate credit reporting agency disputes will make up 60 percent of frivolous or irrelevant disputes, and we estimate this category will require an average of 15 minutes for each notice. Disputes that are frivolous or irrelevant for other reasons are assumed to make up 15 percent of frivolous or irrelevant disputes, and we estimate these other categories of disputes will require an average of 20 minutes each.

Another commenter stated that, while most furnishers would only make minor modifications, if any, to their existing practices to develop and implement the accuracy and integrity program, even these minor modifications will require significantly more than 21 hours, especially for furnishers of significant amounts of data from a wide range of business lines.

Review of Furnishing Practices

Two commenters expressed concern that furnishers would be required to audit their furnishing practice. One of them stated that it could take several days for furnishers to design an audit of their furnishing practices and additional time to perform it and provide an audit report. The commenter urged the Agencies to consider the impact of the requirements, keeping in mind accumulating burden and cost. The commenter stated that it is critical that the Agencies regulating financial institutions convey clearly and publicly to their respective examiners their expectations of the implementation process, given the Agencies' stated view that the final rule will not impose significant burden or cost upon furnishers.

Another commenter opined that the suggested actions a furnisher should take to establish and maintain a

compliance program should be reduced or eliminated. The commenter stated it was unclear how the suggested actions could be considered and documented, let alone designed and implemented, in 21 hours, even for small furnishers. The commenter expressed the concern that examiners of financial institutions will treat suggestions—such as the one that furnishers audit their existing furnishing activities—as requirements, and added that it is unclear whether any furnisher needs to audit its existing program to comply with the final rules. The commenter additionally observed that the Agencies' burden estimate of 21 hours to comply with the final rule would be inconsistent with additionally having to conduct such audits. The commenter asserted that it would require more than 21 hours simply to conduct an audit of a mid-sized furnisher, and additional time beyond that to evaluate the audit results before drafting a compliance program. Finally, the commenter predicted that the costs of an audit may lead some institutions not to furnish information. Based on the comments received, the Agencies have decided to increase the burden associated with this requirement from 21 hours to 24 hours (three business days). In doing so, however, we note that, as stated earlier in the **SUPPLEMENTARY INFORMATION** section, the requirement for a furnisher to periodically review policies and procedures and update them as necessary is not an audit requirement. The final rule does not impose an audit requirement on a furnisher to conduct an official examination and verification of consumer accounts and records regarding its policies and procedures. In fact, the Agencies believe that an audit would impose undue burden on furnishers, especially small furnishers, and result in less information being provided into the credit reporting system.

Impact on Small Institutions

One commenter stated that the impact of the proposal on small institutions' current resources would be severe and that they would have to use significant resources to comply with the proposed requirements. The commenter added that its member companies spend about one hour verifying each dispute, and it expects a substantial increase in direct disputes once the rule is implemented. The commenter anticipates that consumers will choose to use direct disputes over contacting CRAs.

As discussed earlier in the **SUPPLEMENTARY INFORMATION** section, the Agencies recognize that a "one-size-fits-all" approach for implementing the

guidelines is inappropriate. The final rule specifies that a furnisher's policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnisher's activities. The Agencies expect that the written policies and procedures for a small retail entity will differ substantially from, and be significantly less complex than, those of a multi-billion dollar financial services company. The Agencies have also addressed furnishers' implementation burden for § .43⁴⁴ of the final rule by permitting furnishers to specify a direct dispute address for receiving such disputes. The address may be provided to consumers either by a CRA setting forth the address, which is provided by the furnisher, on a consumer report or by other means to consumers in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher).

PRA Submission to OMB for Final Rule

The information collection requirements contained in this joint final rule have been submitted by the OCC, FDIC, OTS, NCUA, and FTC to OMB for review and approval under section 3506 of the PRA and § 1320.11 of OMB's implementing regulations (5 CFR part 1320). The review and authorization information for the Board is provided later in this section along with the Board's burden estimates. The Agencies may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The final rule requirements subject to the PRA are found in 12 CFR .42(a), .43(a), .43(f)(2), and .43(f)(3) and 16 CFR 660.3(a), 660.4(a), 660.4(f)(2), and 660.4(f)(3).

Proposed Information Collection

Title of Information Collection: Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies.

Frequency of Response: On occasion; frequent for large entities.

Affected Public:

OCC: National banks, Federal branches and agencies of foreign banks, and their respective operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)) that furnish or have furnished information to CRAs.

Board: State member banks, uninsured state agencies and branches

of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge and agreement corporations.

FDIC: Insured nonmember banks, insured state branches of foreign banks, and certain subsidiaries of these entities.

OTS: Savings associations and certain of their subsidiaries.

NCUA: Federal credit unions.

FTC: Businesses that furnish information to a CRA, and are subject to administrative enforcement by the FTC pursuant to section 621(a)(1) of the FCRA (15 U.S.C. 1681s(a)(1)).

Abstract: Section .42(a)⁴⁵ of the final regulations requires a furnisher to implement reasonable written policies and procedures regarding the accuracy and integrity of information relating to consumers that it provides to a CRA. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities. Furnishers already have an ongoing responsibility under section 623 of the FCRA for accurate reporting, which has been in place long before enactment of the FACT Act. This final rule would require furnishers to draft policies and procedures that address their section 312 responsibilities regarding the accuracy and integrity of information. Furnishers' accuracy and integrity policies and procedures may include their existing policies and procedures that are reasonable and appropriate. As mentioned earlier, the Agencies have reassessed the burden for section .42(a) and increased their estimate from 21 hours to 24 hours.

Section .43(a)⁴⁶ allows consumers, in certain circumstances, to initiate disputes directly with furnishers, instead of using the existing FCRA process through CRAs. Furnishers already have affirmative responsibilities to research and respond and, if necessary, make any corrections when a dispute is initiated by consumers through a CRA. Under this final rule, furnishers would have to follow a substantially similar process for disputes consumers submit directly to them. Furnishers would need to amend their procedures to ensure that disputes received directly from consumers are processed in a substantially similar manner as complaints received from CRAs. In the NPRM, the Agencies estimated that furnishers would devote four hours to amend their procedures. Based on comments received, the Agencies have increased the burden

⁴⁵ 16 CFR 660.3(a) in the FTC's regulations.

⁴⁶ 16 CFR 660.4(a) in the FTC's regulations.

⁴⁴ 16 CFR 660.3 in the FTC regulations.

estimate to eight hours (one business day).

Section .43(f)(2)⁴⁷ incorporates the section 312 requirement that a furnisher must notify a consumer by mail or other means (if authorized by the consumer) within five business days after making a determination that a dispute is frivolous or irrelevant.

Section .43(f)(3)⁴⁸ incorporates the content requirements from section 312 for a notice of determination that a dispute is frivolous or irrelevant. In the NPRM, the Agencies estimated that furnishers would devote four hours to implement this notice requirement. Based on comments received, the Agencies have increased the burden estimate to eight hours (one business day).

Regarding estimated potential burden for providing the notices to consumers for frivolous or irrelevant disputes,⁴⁹ the Agencies received an industry comment that estimated 50 percent of disputes received are frivolous or irrelevant. A second industry commenter stated that CRAs have estimated that as many as one third of the disputes they received are illegitimate efforts at credit repair. In contrast, another industry commenter stated that in only 25 percent of disputes is the challenged information in the consumer report verified as correct. However, a fourth industry commenter reported that some of its members suggested that only six to seven percent of disputes regarding their trade lines prove to be valid and result in information being blocked from appearing on subsequent credit reports. Thus, based on these various commenters' estimates, and assuming that all disputes are frivolous or irrelevant when information in the consumer report is verified as correct, the percentage of frivolous or irrelevant disputes could range from 25 percent to 94 percent of all disputes. At this time the Agencies know neither the number nor rate of frivolous or irrelevant disputes currently being received by CRAs, nor the extent to which furnishers currently receive and provide notices in response to frivolous or irrelevant disputes. The Agencies have considered all of the comments and available information and have increased their estimates for the number of written notices that furnishers will provide to consumers in response to direct disputes that are frivolous or

irrelevant.⁵⁰ The Agencies estimate that furnishers would devote an average of 14 minutes per dispute to prepare and send a notice to a consumer.⁵¹

*Estimated Burden:*⁵²

Thus, the burden associated with this collection of information may be summarized as follows.

OCC

Number of respondents: 1,508.

Number of frivolous or irrelevant disputes: 2.8 million.

Number of additional non-frivolous or irrelevant disputes: 1,874,010 million.⁵³

Estimated annual burden associated with direct disputes: 1,094,892 hours.

Estimated burden per respondent: 24 hours to implement written policies and procedures and training associated with the written policies and procedures, 8 hours to amend procedures for handling complaints received directly from consumers, 8 hours to implement the new dispute notice requirement, and 14 minutes per notice for distribution.

Total estimated annual burden: 1,147,447 hours.

Board

In accordance with the PRA (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board, under its delegated authority from OMB, has approved the implementation of this information collection. The information collection associated with this rulemaking will be incorporated into the Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting) and will be assigned OMB No. 7100-0308. The burden estimates provided below pertain only

⁵⁰ Frivolous or irrelevant disputes will generally fall into one of three categories: (i) Disputes based on, or influenced by, form letters from credit repair organizations, (ii) duplicate or serial disputes, and (iii) disputes that are incomplete or classified as frivolous or irrelevant for other reasons.

⁵¹ Fourteen minutes is the estimated time required to send a notice to a consumer as required by the final rule and, when appropriate, for a furnisher to transmit information to CRAs through e-OSCAR. The estimated burden per notice does not include the time a company's staff may spend locating or evaluating original documents or resolving the dispute.

⁵² Based upon comments received and upon consideration of data regarding current numbers of disputes, the agencies have increased their burden estimates from those provided in the NPRM.

⁵³ A dispute related to one trade line may require more than one notice. For example, a notice may be sent by a furnisher for the same trade line to a consumer in response to a frivolous or irrelevant dispute, and after the dispute is re-submitted with additional information another notice would be required in response to the non-frivolous dispute. Absent input to further inform the estimated time to prepare and distribute non-frivolous or irrelevant dispute notices, the OCC will assume the same time estimates as applied to frivolous or irrelevant dispute notices.

to the information collections associated with this final rule.

Number of respondents: 1,172.

Number of frivolous or irrelevant dispute notices: 611,966.

Estimated burden per respondent: 24 hours to implement written policies and procedures and training associated with the written policies and procedures, 8 hours to amend procedures for handling complaints received directly from consumers, 8 hours to implement the new dispute notice requirement, and 14 minutes per notice for distribution.

Total estimated annual burden: 189,672 hours.

FDIC

Number of respondents: 5,104.

Number of frivolous or irrelevant dispute notices: 100,100.

Estimated burden per respondent: 24 hours to implement written policies and procedures and training associated with the written policies and procedures, 8 hours to amend procedures for handling complaints received directly from consumers, 8 hours to implement the new dispute notice requirement, and 14 minutes per notice for distribution.

Total estimated annual burden: 227,517 hours.

OTS

Number of respondents: 804.

Number of frivolous or irrelevant dispute notices: 15,001.

Estimated burden per respondent: 24 hours to implement written policies and procedures and training associated with the written policies and procedures, 8 hours to amend procedures for handling complaints received directly from consumers, 8 hours to implement the new dispute notice requirement, and 14 minutes per notice for distribution.

Total estimated annual burden: 35,610 hours.

NCUA

Number of respondents: 4,909.

Estimated burden per respondent: 24 hours to implement written policies and procedures and training associated with the written policies and procedures, 8 hours to amend procedures for handling complaints received directly from consumers, 8 hours to implement the new dispute notice requirement, and 14 minutes per notice for distribution.

Number of frivolous or irrelevant dispute notices: 153,072.

Total estimated annual burden: 232,076 hours.

FTC⁵⁴

Number of respondents: 6,133.

⁵⁴ Due to the varied nature of the entities subject to the jurisdiction of the FTC, this Estimated

⁴⁷ 16 CFR 660.4(f)(2) in the FTC's regulations.

⁴⁸ 16 CFR 660.4(f)(3) in the FTC's regulations.

⁴⁹ Frivolous or irrelevant disputes also include incomplete and duplicate disputes. See § __.43(f)(1).

Number of frivolous or irrelevant dispute notices: 21,720.

Estimated burden per respondent: 24 hours in the first year of the rule's existence to implement written policies and procedures and training associated with the written policies and procedures, another 8 hours in the first year to amend procedures for handling complaints received directly from consumers, and 8 hours to implement the new dispute notice requirement, and 14 minutes per notice for preparation and distribution. Recurring burden, if any, in subsequent years are further detailed below.

Total estimated annual burden: 95,000 hours (rounded to the nearest thousand)

Section 660.3:

Estimated Hours Burden:

As discussed above, the final rule requires furnishers to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a CRA. The final rule defines "furnisher" to mean an entity that furnishes information relating to consumers to one or more CRAs for inclusion in a consumer report, but provides that an entity is not a furnisher when it: Provides information to a CRA solely to obtain a consumer report for a permissible purpose under the FCRA;⁵⁵ is acting as a CRA as defined in section 603(f) of the FCRA; is an individual consumer to whom the furnished information pertains; or is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a CRA.

Given the broad scope of furnishers, it is difficult to determine precisely the number of furnishers that are subject to the FTC's jurisdiction. Nonetheless, FTC staff estimates that the final regulations in § 660.3 will affect approximately 6,133 furnishers subject to the FTC's jurisdiction.⁵⁶ As detailed below, FTC

staff estimates that the average annual information collection burden during the three-year period for which OMB clearance is sought will be 57,000 hours (rounded to the nearest thousand).

The final rule is drafted in a flexible manner that allows entities to establish and implement different types of written policies and procedures based upon the nature, size, complexity, and scope of their activities. A furnisher may include any of its existing policies and procedures in place to ensure the accuracy of information. The FTC believes that many entities have already implemented a significant portion of the policies and procedures required by the final rule. Entities have had an ongoing requirement under section 623 of the FCRA to provide accurate information when they choose to furnish data to CRAs. The written policies and procedures in the rule formalize the processes and controls necessary for accurate reporting. Accordingly, FTC staff estimates that entities will require 24 hours to establish and implement written policies and procedures, including the incremental time to train staff to implement these policies and procedures, with an annual recurring burden of 2 hours; thus, as annualized over a 3-year clearance period, 9.33 hours (28 hours ÷ 3).

Accordingly, cumulative annualized burden for 6,133 furnishers subject to the FTC's jurisdiction to establish and implement written policies and procedures is 57,000 hours (rounded to the nearest thousand).

Estimated Cost Burden:

The FTC staff derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. It is difficult to calculate with precision the labor costs associated with the final regulations, as they entail varying compensation levels of management and/or professional technical staff among companies of different sizes. In calculating the cost figures, staff assumes that managerial and/or professional technical personnel will draft the written policies and procedures and train staff. In the NPRM analysis, FTC staff estimated labor cost for such employees to be \$38.93, based on 2006 BLS data for management occupations. However, based on more current available BLS data, the FTC is revising upward this prior estimate to \$41.⁵⁷

Based on the above estimates and assumptions, the total annual labor costs for all categories of covered entities under the final regulations in § 660.3 are \$2,337,000 (rounded to the nearest thousand) [(57,000 hours x \$41)].

Section 660.4:

Estimated Hours Burden:

The final regulations would also require entities that furnish information about consumers to respond to direct disputes from consumers. FTC staff estimates that the final regulations in § 660.4 will also affect approximately 6,133 furnishers subject to the FTC's jurisdiction. As detailed below, FTC staff estimates that the average annual information collection burden during the three-year period for which OMB clearance is sought will cumulatively be 38,000 hours (rounded to the nearest thousand).

In response to public comments and in concurrence with the Agencies' modified estimate noted above, the FTC staff estimates that it will take furnishers eight hours to amend their procedures to ensure that disputes received directly from consumers are handled the same way as complaints from CRAs. FTC staff believes that furnishers of information to CRAs will have automated the process of responding to direct disputes in the first year of the clearance, therefore, there will be no annual recurring burden. Accordingly, the associated annualized burden hours over a projected three-year OMB clearance would be approximately 2.67 hours. Similarly, FTC staff also estimates that it will take furnishers eight hours in the first year to implement the requirement to notify a consumer by mail or other means (if authorized by the consumer) within five business days after making a determination that a dispute is frivolous or irrelevant. FTC staff believes that furnishers will also automate this process in the first year of clearance, so there will be no annual recurring burden. Likewise, annualized burden hours would be approximately 2.67 hours.

In response to public comments and in concurrence with the Agencies' modified estimate noted above, the FTC staff now estimates that to prepare and distribute a notice to a consumer after a furnisher determines that a dispute is frivolous or irrelevant will require approximately 14 minutes per notice. FTC staff does not know the current extent to which furnishers are already directly receiving disputes and sending

workers," mean and median hourly wages) for management occupations.

Burden section reflects only the view of the FTC. The banking regulatory agencies have jointly prepared a separate analysis.

⁵⁵ 15 U.S.C. 1681b(a).

⁵⁶ This estimate is derived from the number of furnishers reporting to the three nationwide CRAs (approximately 18,000), minus the number of entities subject to jurisdiction of the Federal financial agencies and the NCUA (14,167 combined), and adding the number of furnishers to medical information bureaus (approximately 500) and the number of insurance companies furnishing information to other types of CRAs (approximately 1,800).

⁵⁷ This revised hourly wage rate is based on <http://www.bls.gov/ncs/ncswage2007.htm> (last visited March 3, 2009) (National Compensation Survey: Occupational Earnings in the United States 2007, US Department of Labor released August 2008, Bulletin 2704, Table 3 ("Full-time civilian

related notices to consumers. Nevertheless, FTC staff assumes that 50 percent of all disputes will be filed directly with the furnisher after the rule is in effect. As a result of these factors, FTC staff projects that furnishers under its jurisdiction would directly receive 21,720 frivolous or irrelevant disputes requiring a notice each year.⁵⁸ Thus, FTC staff estimates it will take furnishers 5,068 hours, cumulatively, for each of the three years for which OMB clearance is sought to prepare and distribute these notices.

Estimated Cost Burden

As with its PRA analysis for § 660.3, the FTC staff derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. Again, it is difficult to calculate with precision the labor costs associated with the final regulations, as they entail varying compensation levels of different types of support staff among companies of different sizes. Nonetheless, in calculating the cost figures, staff assumes managerial and/or professional technical personnel will amend procedures to ensure that disputes received directly from consumers are handled the same way as complaints from CRAs and will implement the requirement to notify a consumer by mail or other means, after making a determination that a dispute is frivolous or irrelevant, at an hourly rate of \$41.⁵⁹ Staff now assumes that skilled administrative support personnel will provide the required notices to consumers, and has revised upward the estimated hourly rate from \$13.50 to \$18.50.⁶⁰

Based on the above estimates and assumptions, the total average annual labor costs for all categories of covered entities under the final regulations in section 660.4 are \$1,437,000 (rounded to the nearest thousand) [(2.67 hours) × 6,133 × \$41] + ((2.67 hours) × 6,133 ×

\$41) + (5,073 hours × \$18.50) (for preparing and distributing frivolous or irrelevant dispute notices)].

B. Regulatory Flexibility Act

OCC: The Regulatory Flexibility Act (RFA) generally requires an agency that is issuing a final rule to prepare and make available a final regulatory flexibility analysis that describes the impact of the final rule on small entities, 5 U.S.C.604. However, the RFA provides that an agency is not required to prepare and make available a final regulatory flexibility analysis if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). For purposes of the RFA and OCC-regulated entities, a “small entity” is a national bank with assets of \$175 million or less (small national bank). Based on its analysis and for the reason stated below, OCC certifies that these final rules will not have a significant economic impact on a substantial number of small entities. Based on two tests used to evaluate the impact of the final rules (compliance costs as a percentage of labor costs and compliance costs as a percentage of non-interest expenses) the OCC estimates that the final rules would have a significant economic impact on 16 of 676 small national banks (approximately two percent of small national banks); the OCC does not consider this to be a substantial number of small entities.

Board: The Board prepared an initial regulatory flexibility analysis as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) in connection with the proposed rule. The Board received three comment letters addressing its initial regulatory flexibility analysis.

Under section 605(b) of the RFA, 5 U.S.C. 605(b), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if an agency certifies, along with a statement providing the factual basis for such certification, that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include commercial banks and other depository institutions with \$175 million or less in assets). Based on its analysis and for the reasons stated below, the Board certifies that these final rules will not have a significant economic impact on a substantial number of small entities.

1. Statement of the Need for, and Objectives of, the Final Rules.

Section 312 of the FACT Act (which amends section 623 of the FCRA)

requires the Agencies to issue regulations and guidelines relating to the responsibilities of furnishers of information about consumers to CRAs for the purpose of enhancing the accuracy and integrity of the information furnished. In addition, the Agencies must prescribe joint regulations that identify the circumstances, if any, under which furnishers must investigate disputes about the accuracy of the information contained in a consumer report on the consumer based on a direct request by a consumer, rather than requiring consumers to initiate a dispute through a consumer reporting agency.

The **SUPPLEMENTARY INFORMATION** above contains information on the objectives of the final rules.

2. Summaries of Issues Raised by Comments in Response to the Initial Regulatory Flexibility Analysis.

In accordance with section 3(a) of the RFA, the Board conducted an initial regulatory flexibility analysis in connection with the proposed rule. The Agencies estimated in the proposed rule that it would take furnishers approximately 21 hours on average to implement the written policies and procedures regarding accuracy and integrity, including appropriate staff training. One commenter, Independent Community Bankers of America (ICBA), questioned the Agencies’ estimate, noting that the compliance burdens will be significantly more than the 21 hours estimated by the Agencies. Another commenter, MasterCard Worldwide, also questioned the Agencies’ 21 hours estimate, but this comment did not apply uniquely to small entities. Another commenter, The American Financial Services Association (AFSA), predicted that the impact on small institutions current resources would be severe. AFSA stated that it anticipated that direct disputes would increase significantly and thus believed that the “Estimated Hours Burden” and “Estimated Cost Burden” are extremely low.

The Agencies estimated that it would take furnishers approximately four hours to adjust procedures for handling disputes received directly from consumers, another four hours to implement the new dispute process, and approximately another five minutes to send each notice of direct dispute. ICBA noted that it is probably unreasonable to believe that it will take only five minutes to prepare and send a notice of direct dispute since it will likely take much longer than that merely to review and investigate a dispute.

3. Description and Estimate of Small Entities Affected by the Final Rules.

⁵⁸This number is derived from an estimate of disputes per year that relate to information provided by an entity under the FTC’s jurisdiction (108,600), an estimated 50% of which will be received directly by furnishers, and the Agencies’ estimated 40% increase of the number of written notices that furnishers will provide to consumers in response to direct disputes that are frivolous or irrelevant.

⁵⁹See *supra* note 57 regarding FTC costing under § 660.3 for management occupations.

⁶⁰See <http://www.bls.gov/ncs/ncswage2007.htm> (last visited March 3, 2009) (National Compensation Survey: Occupational Earnings in the United States 2007, US Department of Labor released August 2008, Bulletin 2704, Table 3 (“Full-time civilian workers,” mean and median hourly wages). This estimate is based on rates appearing therein for a combination of potentially analogous employee types (e.g., first-line supervisors of office support, accounting and auditing clerks, brokerage clerks, eligibility reviewers of government programs).

The final rules apply to all banks that are members of the Federal Reserve System (other than national banks) and their respective operating subsidiaries, branches and Agencies of foreign banks (other than Federal branches, Federal Agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 *et seq.*, and 611 *et seq.*). The Board's final rules will apply to the following institutions (numbers approximate): State member banks (881), operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (877), U.S. branches and agencies of foreign banks (219), commercial lending companies owned or controlled by foreign banks (3), and Edge and agreement corporations (64), for a total of approximately 2,044 institutions. The Board estimates that more than 1,448 of these institutions could be considered small entities with assets of \$175 million or less.

All small entities covered by the Board's rule potentially will be subject to the final rules. However, the final rules will not impose any requirements on small entities that do not furnish information about consumers to CRAs.

4. Recordkeeping, Reporting and Other Compliance Requirements.

The final rules require small entities that are furnishers subject to the rule to establish and implement reasonable policies and procedures regarding the accuracy and integrity of the information relating to consumers that they furnish to a CRA. Such furnishers are required to consider the guidelines in Appendix E to the proposed rule in developing these policies and procedures, and to incorporate those guidelines that are appropriate. The final rules also require small entities that are furnishers to investigate direct disputes received from a consumer that relate to an account or other relationship that the furnisher has with the consumer. The final rules require small entities to notify consumers who submit direct disputes of the results of the investigation or of the determination that the dispute is frivolous or irrelevant.

5. Steps Taken To Minimize the Economic Impact on Small Entities.

The Board believes the rule will not have a significant economic impact on a substantial number of small entities. The Board and the other Agencies have sought to minimize the economic impact on small entities by adopting

consistent rules; affording furnishers the flexibility to establish policies and procedures that are appropriate to the nature, size, complexity, and scope of each furnisher's activities; permitting furnishers to include in their accuracy and integrity policies and procedures any of their existing policies and procedures that are relevant and appropriate; and affording furnishers the flexibility not to investigate disputes they reasonably believe have been submitted by a credit repair organization.

The Board believes that many institutions' existing policies and procedures already address significant portions of the requirements related to furnishing information to CRAs. Similarly, the Board believes that many furnishers are already investigating direct disputes as good business practice. Furthermore, the Board notes that furnishers investigate disputes brought directly to a consumer reporting agency, which then directs the disputes to the furnisher, as appropriate, pursuant to existing FCRA law.

FDIC: The FDIC prepared an initial regulatory flexibility analysis as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) in connection with the December 13, 2007 proposed rule. The FDIC received three comment letters addressing its initial regulatory flexibility analysis.

Under section 605(b) of the RFA, 5 U.S.C. 605(b), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if an agency certifies, along with a statement providing the factual basis for such certification, that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include commercial banks and other depository institutions with \$175 million or less in assets). Based on its analysis and for the reasons stated below, the FDIC certifies that these final rules will not have a significant economic impact on a substantial number of small entities.

Under the final rules, which implement section 312 of the FACT Act (which amends section 623 of the FCRA), the FDIC has issued regulations and guidelines relating to the responsibilities of furnishers of information about consumers to consumer reporting agencies for the purpose of enhancing the accuracy and integrity of the information furnished. In addition, the FDIC has prescribed joint regulations (with the other Agencies) that identify the circumstances under which furnishers must investigate disputes about the

accuracy of the information contained in a consumer report on the consumer based on a direct request by a consumer, rather than requiring consumers to initiate a dispute through a consumer reporting agency. The **SUPPLEMENTARY INFORMATION** above contains information on the objectives of the final rules.

The final rules apply to most FDIC-insured state nonmember banks, approximately 3,400 of which are small entities. Under the rule, financial institutions that furnish information about consumers to one or more consumer reporting agencies must have written policies and procedures regarding the accuracy and integrity of that information. The program must be appropriate to the nature, size, complexity, and scope of the furnishing activities. A furnisher may include any of its existing policies and procedures in place to ensure the accuracy of information. Institutions have had an ongoing requirement under section 623 of the FCRA to provide accurate information when they choose to furnish data to consumer reporting agencies. The written policies and procedures in the rule would formalize the processes and controls necessary for accurate reporting. Federal Financial Institutions Examination Council examination procedures exist and have been used for years to evaluate compliance with the aspects of section 623 of the FCRA. Based on our examination of the financial institutions we supervise, the FDIC believes that many of these institutions have already implemented a significant portion of the policies and procedures required by the rule. The process of furnishing information to consumer reporting agencies is largely automated.

The final rules also require financial institutions that furnish information about consumers to respond to direct dispute requests from consumers with regard to certain perceived inaccuracies. While the final rules would require new procedural requirements, including direct dispute notices, the FDIC believes that investigating direct disputes will not create significant additional burdens on small banks, for a number of reasons.

First, most furnishers are already investigating similar disputes, which under the current law are brought directly to the relevant consumer reporting agency, which then contacts the furnisher for an investigation. Under this procedure, furnishers are already required to review all relevant information provided by the consumer reporting agency along with the notice; report the results of the investigation to the consumer reporting agency; if the disputed information is found to be

incomplete or inaccurate, report those results to all nationwide consumer reporting agencies to which the financial institution previously provided the information; and if the disputed information is incomplete, inaccurate, or not verifiable by the financial institution, promptly, for purposes of reporting to the consumer reporting agency, modify the item of information, delete the item of information, or permanently block the reporting of that item of information.

Second, many of these furnishers are already investigating direct disputes as a matter of good customer relations and sound business practices or under other consumer protection laws.

Third, the final rules do not require investigation in cases that are frivolous or irrelevant.

OTS: The Regulatory Flexibility Act (RFA) generally requires an agency that is issuing a final rule to prepare and make available a final regulatory flexibility analysis that describes the impact of the final rule on small entities. 5 U.S.C. 604. However, the RFA provides that an agency is not required to prepare and make available a final regulatory flexibility analysis if the agency certifies, along with a statement providing the factual basis for such certification, that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA and OTS-regulated entities, a "small entity" is a savings association with \$175 million or less in assets (small savings association). Based on its analysis and for the reasons stated below, OTS certifies that these final rules will not have a significant economic impact on a substantial number of small entities.

1. Reasons for Final Rules.

The FACT Act amends the FCRA and was enacted, in part, for the purpose of enhancing the accuracy and integrity of information furnished to CRAs. Section 312 of the FACT Act generally requires the Agencies to issue guidelines for use by furnishers regarding the accuracy and integrity of the information relating to consumers that they furnish to consumer reporting agencies and prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines. Section 312 also requires the Agencies to prescribe regulations identifying the circumstances under which a furnisher must reinvestigate disputes about the accuracy of information contained in a consumer report based on a direct request from a consumer. OTS is issuing these final rules to implement section 312 of the FACT Act.

2. Statement of Objectives and Legal Basis.

The objectives of the final rules are described in the **SUPPLEMENTARY INFORMATION** section. In sum, the objectives are: (1) To implement the general statutory provision that requires the Agencies to issue guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that they furnish to consumer reporting agencies and prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines and (2) to fulfill the statutory mandate requiring the Agencies to prescribe regulations identifying the circumstances under which a furnisher must reinvestigate disputes about the accuracy of information contained in a consumer report based on a direct request from a consumer. The primary legal basis for the final rules is the Fair Credit Reporting Act found at 15 U.S.C. 1681 *et seq.*

3. Description and Estimate of Small Entities Affected by the Final Rules.

The final rules apply to savings associations and operating subsidiaries of Federal savings associations that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)).

OTS estimates that its final rules will apply to 391 small savings associations with assets of \$175 million or less.

4. Projected Recordkeeping, Reporting, and Other Compliance Requirements.

The compliance requirements of the final rules are described in the **SUPPLEMENTARY INFORMATION** above.

In general, the final rules require each furnisher subject to the rule to establish and implement reasonable policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. Furnishers will be required to consider the guidelines in Appendix E to the final rules in developing these policies and procedures and to incorporate those guidelines that are appropriate.

In response to comments about potential burden, the Agencies have sought to reduce the burden associated with these accuracy and integrity regulations and guidelines in several ways.

First, the Agencies have adopted consistent rules.

Second, the final rules provide substantial flexibility and minimize burden to allow any thrift, regardless of size, to tailor its practices to its

individual needs. The program must be appropriate to the nature, size, complexity, and scope of the furnishing activities.

Third, a furnisher may include any of its existing policies and procedures in place to ensure the accuracy of information. Furnishers have a preexisting obligation under section 623 of the FCRA to provide accurate information when they furnish data to consumer reporting agencies. OTS believes that many furnishers are likely to have existing policies and procedures regarding accurate reporting in order to satisfy their obligations under section 623, and that these policies and procedures could be incorporated in the policies and procedures required by the final rules.

Furnishers subject to the final rules also will be required, under certain circumstances, to investigate disputes concerning the accuracy of information about the consumer contained in a consumer report based on a direct request of a consumer. While the rule requires new procedural requirements, OTS believes that investigating direct disputes will not create significant additional burdens on small institutions, for a number of reasons.

First, most savings association furnishers already investigate similar disputes that are provided to them by a consumer reporting agency pursuant to the existing dispute provisions contained in section 611 of the FCRA.

Second, commenters on the ANPR and NPRM noted that many furnishers already investigate direct disputes as a matter of good customer relations, sound business practices, or because they are required to do so by other consumer protection laws. Savings associations also investigate disputes brought to the institution through OTS's customer complaint system.

Third, the final rules do not require investigation of direct disputes when such disputes are frivolous or irrelevant.

Fourth, savings associations already have mechanisms and processes in place to handle consumer complaints brought under other laws such as the Truth in Lending Act, Real Estate Settlement Procedures Act, and Electronic Funds Transfer Act. OTS believes many of these mechanisms and processes can be readily adapted to handle consumer disputes about their consumer reports.

5. Identification of Duplicative, Overlapping, or Conflicting Federal Rules.

OTS is unable to identify any statutes or rules which would overlap or conflict with the final rules.

6. Discussion of Significant Alternatives.

As required by the FACT Act, the final rules and guidelines apply to all covered institutions, regardless of the size of the institution. One approach to minimizing the burden on small entities would have been to provide a specific exemption for small institutions. However, OTS has no authority under section 312 of the FACT Act to grant an exception that would remove small institutions from the scope of the rule.

The final rules do, however, provide substantial flexibility so that any savings association, regardless of size, may tailor its practices to its individual needs. For example, to minimize burden the final rules permit institutions to include in their accuracy and integrity policies and procedures their existing policies and procedures that are relevant and appropriate. Furthermore, OTS and other Agencies have attempted to minimize burden by: adopting consistent rules; incorporating into the final rules at § 571.42(a) a statement that policies and procedures should be appropriate to the nature, size, complexity, and scope of a furnisher's activities; and providing furnishers with three options for providing their direct disputes address to consumers under § 571.43(c).

NCUA: The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small entities. 5 U.S.C. 601–612. NCUA considers credit unions having less than ten million dollars in assets to be small for purposes of RFA. NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2 as amended by IRPS 03–2. In connection with the December 13, 2007 proposed rule, NCUA certified that the proposed rule would not have a significant economic impact on a substantial number of small credit unions and therefore, a regulatory flexibility analysis was not required. Upon further review, the NCUA now certifies that the final rules also will not have a significant economic impact on a substantial number of small credit unions. The final rules will apply to all Federal credit unions regardless of asset size.

FTC: The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–612, requires that the FTC provide an Initial Regulatory Flexibility Analysis (“IRFA”) with a proposed rule and a Final Regulatory Flexibility Analysis (“FRFA”), if any, with the final rule, unless the FTC certifies that the rule will not have a significant economic impact on a

substantial number of small entities. See 5 U.S.C. 603–605.

The FTC hereby certifies that the final regulations will not have a significant economic impact on a substantial number of small business entities. The FTC continues to believe that a precise estimate of the number of small entities that fall under the final regulations is not currently feasible. Based on changes made to the final regulations in response to comments received, and the FTC's own experience and knowledge of industry practices, the FTC continues to believe that the cost and burden of complying with the final regulations are minimal. Accordingly, this document serves as notice to the Small Business Administration of the agency's certification of no effect. Nonetheless, the FTC has decided to publish a FRFA with these final regulations. Therefore, the FTC has prepared the following analysis:

1. Need for and Objectives of the Rule.

The FTC is charged with enforcing the requirements of section 312 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) (15 U.S.C. 1681a–2(a)(8) and 1681a–2(e)). Section 312 of the FACT Act generally requires the Agencies to issue guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that they furnish to consumer reporting agencies and prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines. Section 312 also requires the Agencies to prescribe regulations identifying the circumstances under which a furnisher must reinvestigate disputes about accuracy of information contained in a consumer report based on a direct request from a consumer. In this action, the FTC promulgates final rules that would implement these requirements of the FACT Act.

2. Significant Issues Received by Public Comment.

The FTC received a number of comments on the effect of the proposed regulations. Some of the comments addressed the effect of the proposed regulations on businesses generally, and did not identify small businesses as a particular category. The FTC staff, therefore, has included all comments in this FRFA that raised potential compliance issues for small businesses, regardless of whether the commenter identified small businesses as being an affected category.

The FTC estimated in the proposed rule that it would take furnishers approximately 21 hours on average to establish and implement the written

policies and procedures regarding accuracy and integrity, including the incremental time to train staff. The FTC also estimated that it would take furnishers approximately four hours to adjust procedures for handling disputes received directly from consumers, another four hours to implement the new dispute process, and approximately five minutes to send each notice of direct dispute.

One commenter questioned these estimates, stating it is impossible to verify whether it will take more time to implement the final rules. This commenter also stated that it is unreasonable to believe it will take only five minutes to prepare and send a notice since it is likely to take longer simply to review and investigate a dispute. Another commenter stated that the compliance burdens will be significantly more than 21 hours, but this comment did not apply uniquely to small entities. The FTC also received a comment predicting that the impact of the proposed rules on small institutions would be severe, but noting that it is impossible to estimate the full impact. This comment noted that they expect that direct disputes would increase significantly and thus believed that the “Estimated Hours Burden” and “Estimated Cost Burden” are extremely low. The commenter also disputed that the bulk of disputes received would be handled by a clerical level employee.

As noted in the PRA analysis, the Agencies have revised the estimate of 21 hours on average to establish and implement the written policies and procedures regarding accuracy and integrity to 24 hours. The Agencies have also revised the estimates of four hours to adjust procedures for handling direct disputes and another four hours to implement the new dispute process to eight hours in both instances. Moreover, the estimated burden per notice represents the time it will take a furnisher to prepare notices as required by the final rules, and does not include the time required to review and investigate a dispute. However, the Agencies have revised the estimate of time to provide a notice to a consumer from five minutes to fourteen minutes.

In addition, one commenter noted that smaller entities may not have established policies and procedures, and requested that the final rules permit furnishers to adapt or rely on the instructions of CRAs or service providers in lieu of establishing policies and procedures. Another commenter also requested that the Agencies eliminate the requirement for written policies and procedures to minimize the burden of the final rules. As discussed

in the **SUPPLEMENTARY INFORMATION**, the final rules specify that a furnisher's policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnisher's activities. The Agencies expect that the written policies and procedures for a small retail entity will differ substantially from, and be significantly less complex, than those of a multi-billion dollar financial services company.

The FTC received additional comments suggesting that the agencies minimize the burden of the final rules by: Ensuring adequate time for implementation; more clearly distinguishing the responsibilities of furnishers from the responsibilities of CRAs; "[e]liminat[ing] liability from 'accuracy' and 'integrity'"; removing any obligation to update information that was accurate when furnished; and clarifying that there is no need for a furnisher to continue reporting on a debt once the debt is sold. The Agencies have set a mandatory compliance deadline of July 1, 2010, thereby providing all entities with at least one year within which to implement the final regulations. As discussed in the **SUPPLEMENTARY INFORMATION**, the definitions of "accuracy" and "integrity" do not impose stand-alone obligations on furnishers but guide and inform the duties otherwise imposed on furnishers under the regulations. The Agencies further note that section 623(c) of the FCRA limits private rights of actions for a furnisher's noncompliance with the rules issued pursuant to section 312 of the FACT Act, which include the definitions of "accuracy" and "integrity." Finally, with respect to debt that is sold, as discussed in the **SUPPLEMENTARY INFORMATION**, the Agencies do not expect that after transferring an account to a third party a furnisher would update the current status of the account beyond providing information to a CRA that the account has been transferred.

3. *Small Entities to Which the Final Rules Will Apply.*

The FTC's final rules will apply to "an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report," except when it "(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act; (2) Is acting as a "consumer reporting agency" as defined in section 603(f) of the Fair Credit Reporting Act; (3) Is a consumer to whom the furnished information pertains; or (4) Is a neighbor, friend, or

associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency." In short, the rule would apply to any entity that (1) is under the FTC's jurisdiction pursuant to the FCRA and (2) furnishes information relating to consumers to one or more consumer reporting agencies.

Generally, the final regulations would apply to financial institutions, creditors, and other entities that furnish information relating to consumers to consumer reporting agencies. In particular, entities under FTC's jurisdiction covered by section 312 include state-chartered credit unions, non-bank lenders, insurers, debt collectors, and any other entity other than an individual consumer that furnishes information relating to consumers to one or more consumer reporting agencies. The FTC requested but did not receive any comments on its IRFA relating to the number and type of small entities affected by the proposed rule. The FTC continues to believe that the available data is not sufficient for it to realistically estimate the number of entities the FTC regulates that would be subject to the final rules and that are small as defined by the Small Business Administration.⁶¹

4. *Projected Reporting, Recordkeeping, and Other Compliance Requirements.*

The final rules require each furnisher subject to the rule to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. Furnishers will be required to consider the guidelines in Appendix A to the final rules in developing these policies and procedures and to incorporate those guidelines that are appropriate. The policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnishing activities. A furnisher may include any of its existing policies and procedures in place to ensure the accuracy of

information. Entities have had an ongoing requirement under section 623 of the FCRA to provide accurate information when they choose to furnish data to consumer reporting agencies. The FTC believes that many furnishers are likely to have existing policies and procedures regarding accurate reporting in order to satisfy their obligations under section 623, and that these policies and procedures could be incorporated in the policies and procedures required by the final rules.

Entities under the FTC's jurisdiction covered by this rule include state-chartered credit unions, non-bank lenders, insurers, debt collectors, and any other entity other than an individual consumer that furnishes information relating to consumers to one or more consumer reporting agencies. In calculating costs, FTC staff assumes that for all entities, managerial and/or professional technical personnel will draft the written policies and procedures regarding the accuracy and integrity of furnished information.

The FTC believes that many entities have already implemented a significant portion of the policies and procedures required by the final rules, as discussed above. Accordingly, the impact of the final rules would be merely incremental and not significant.

Furnishers subject to the final rules will also be required, under certain circumstances, to investigate disputes concerning the accuracy of information about the consumer contained in a consumer report based on a direct request of a consumer. While the rule requires new procedural requirements, including direct dispute notices, the FTC believes that investigating direct disputes will not create significant additional burdens on small entities.

Entities under the FTC's jurisdiction covered by this rule include state-chartered credit unions, non-bank lenders, insurers, debt collectors, and any other entity other than an individual consumer that furnishes information relating to consumers to one or more consumer reporting agencies. In calculating costs, FTC staff assumes that managerial and/or professional technical personnel will adapt mechanisms and processes to handle consumer disputes about their consumer reports and now assumes that skilled administrative support personnel will provide any required notices to consumers.

The FTC believes that investigating direct disputes will not create significant additional burdens on covered entities for a number of reasons.

First, most furnishers are already investigating similar disputes, which

⁶¹ The size standard to be considered a small business for the majority of the non-bank creditors, insurers, and debt collectors that are subject to the Commission's jurisdiction is to have average annual receipts that are \$6.5 million or less. A list of the SBA's size standards for all industries can be found at http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf (last visited March 3, 2009).

under the current law are brought directly to the relevant consumer reporting agency, which then contacts the furnisher for an investigation. Under this procedure, furnishers are already required to review all relevant information provided by the consumer reporting agency along with the notice of dispute; report the results of the investigation to the consumer reporting agency; if the disputed information is found to be incomplete or inaccurate, report those results to all nationwide consumer reporting agencies to which the furnisher previously provided the information; and if the disputed information is incomplete, inaccurate, or not verifiable by the financial institution, promptly, for the purposes of reporting to the consumer reporting agency to modify the item of information, delete the item of information, or permanently block the reporting of that item of information.

Second, many of these furnishers are already investigating direct disputes as a matter of good customer relations and sound business practices.

Third, the final rules do not require investigation for disputes that are frivolous or irrelevant.

Fourth, many furnishers already have mechanisms and processes in place to handle consumer disputes brought under other laws such as the Fair Debt Collection Practices Act (15 U.S.C. 1692–1692p), Truth in Lending Act (15 U.S.C. 1601–1665b), Fair Credit Billing Act (15 U.S.C. 1666–1666j), Real Estate Settlement Procedures Act (12 U.S.C. 2601–2627), and Electronic Funds Transfer Act (15 U.S.C. 1693–1693r). The FTC believes that many of these mechanisms and processes can be readily adapted to handle consumer disputes about their consumer reports.

The final rules contain no requirement to report information to the FTC.

5. Steps Taken to Minimize Significant Economic Impact of the Rule on Small Entities.

The FTC considered whether any significant alternatives, consistent with the purposes of the FACT Act, could further minimize the final rules' impact on small entities. The FTC asked for comment on this issue. The standards in the final rules are flexible so that a covered entity, regardless of size, may tailor its practices to its individual needs. For example, to minimize the burden the final rules would permit entities to include in their accuracy and integrity policies and procedures their existing policies and procedures that are relevant and appropriate. Furthermore, the FTC and other Agencies have attempted to minimize the burden by:

Adopting consistent rules; incorporating into the final rules at § 660.3 a statement that policies and procedures should be appropriate to the nature, size, complexity, and scope of a furnisher's activities; and providing furnishers with three options for providing their direct disputes address to consumers under § 660.4.

C. OCC and OTS Executive Order 12866 Determinations

The OCC and OTS each determined that its portion of the final rules is not a significant regulatory action under Executive Order 12866.

D. OCC and OTS Executive Order 13132 Determinations

The OCC and the OTS each determined that its portion of the final rules does not have any Federalism implications for purposes of Executive Order 13132.

E. NCUA Executive Order 13132 Determination

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, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5) voluntarily complies with the Executive Order. The final rules and guidelines apply only to Federally chartered credit unions and would 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. The NCUA has determined that these final rules and guidelines do not constitute a policy that has Federalism implications for purposes of the Executive Order.

F. OCC and OTS Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (UMRA) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more (adjusted annually for inflation) in any one year. (The inflation adjusted threshold is \$133 million or more.) If a budgetary impact statement is required, section 205 of the UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC and OTS

each determined that its final rules will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$133 million or more in any one year. Accordingly, neither OCC nor OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

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

The NCUA has determined that these final rules do 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

12 CFR Part 41

Banks, Banking, Consumer protection, National Banks, Reporting and recordkeeping requirements.

12 CFR Part 222

Banks, Banking, Holding companies, state member banks.

12 CFR Part 334

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 571

Consumer protection, Credit, Fair Credit Reporting Act, Privacy, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 717

Consumer protection, Credit unions, Fair credit reporting, Privacy, Reporting and recordkeeping requirements.

16 CFR Part 660

Fair Credit Reporting Act, Consumer reports, Consumer reporting agencies, Information furnishers, Identity theft, Trade practices.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

■ For the reasons discussed in the joint preamble, the Office of the Comptroller of the Currency amends chapter I of title 12 of the Code of Federal Regulations by amending 12 CFR part 41 as follows:

PART 41—FAIR CREDIT REPORTING

- 1. Revise the authority citation for part 41 to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24 (Seventh), 93a, 481, 484, and 1818; 15 U.S.C. 1681a, 1681b, 1681c, 1681m, 1681s, 1681s-2, 1681s-3, 1681t, 1681w, Sec. 214, Pub. L. 108-159, 117 Stat. 1952.

- 2. Add a new subpart E to part 41 to read as follows:

Subpart E—Duties of Furnishers of Information

Sec.

41.40 Scope.

41.41 Definitions.

41.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

41.43 Direct disputes.

§ 41.40 Scope.

This subpart applies to a national bank, Federal branch and agency of a foreign bank, and their respective operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)).

§ 41.41 Definitions.

For purposes of this subpart and Appendix E of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

(1) Reflects the terms of and liability for the account or other relationship;

(2) Reflects the consumer's performance and other conduct with respect to the account or other relationship; and

(3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;

(2) Is acting as a "consumer reporting agency" as defined in section 603(f) of the Fair Credit Reporting Act;

(3) Is a consumer to whom the furnished information pertains; or

(4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that the OCC has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(ii) Listed in section I.(b)(2)(iii) of Appendix E of this part.

§ 41.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in Appendix E of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

§ 41.43 Direct disputes.

(a) *General rule.* Except as otherwise provided in this section, a furnisher

must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security Number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher with an account or other relationship with the consumer);

(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that

would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: A copy of the relevant portion of the consumer report that contains the allegedly inaccurate information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer pursuant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher

provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous or irrelevant.* A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form describing the general nature of such information.

■ 3. Add a new appendix E to part 41 to read as follows:

Appendix E to Part 41—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

The OCC encourages voluntary furnishing of information to consumer reporting agencies. Section 41.42 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the

information it furnishes to consumer reporting agencies. Under § 41.42(b), a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 41.42(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. Nature, Scope, and Objectives of Policies and Procedures

(a) *Nature and Scope.* Section 41.42(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

(1) The types of business activities in which the furnisher engages;

(2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and

(3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

(1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:

(i) Identifies the appropriate consumer;

(ii) Reflects the terms of and liability for those accounts or other relationships; and

(iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;

(2) To furnish information about accounts or other relationships with a consumer that has integrity, such that the furnished information:

(i) Is substantiated by the furnisher's records at the time it is furnished;

(ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; thus, the furnished information should:

(A) Include appropriate identifying information about the consumer to whom it pertains; and

(B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and

(iii) Includes the credit limit, if applicable and in the furnisher's possession;

(3) To conduct reasonable investigations of consumer disputes and take appropriate actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

(i) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and

(ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. Establishing and Implementing Policies and Procedures

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

(1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;

(2) Reviewing its historical records relating to accuracy or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;

(3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;

(4) Obtaining feedback from the furnisher's staff; and

(5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

III. Specific Components of Policies and Procedures

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to

substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations.

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

■ For the reasons set forth in the joint preamble, part 222 of title 12, chapter II, of the Code of Federal Regulations is amended as follows:

PART 222—FAIR CREDIT REPORTING (REGULATION V)

■ 1. The authority citation for part 222 is revised to read as follows:

Authority: 15 U.S.C. 1681b, 1681c, 1681m, 1681s, 1681s-2, and 1681w; Secs. 3 and 214, Pub. L. 108-159, 117 Stat. 1952.

■ 2. A new subpart E is added to part 222 to read as follows:

Subpart E—Duties of Furnishers of Information

Sec.

222.40 Scope.

222.41 Definitions.

222.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

222.43 Direct disputes.

Subpart E—Duties of Furnishers of Information

§ 222.40 Scope.

Subpart E of this part applies to member banks of the Federal Reserve System (other than national banks) and their respective operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act, as amended (12 U.S.C. 1844(c)(5)), branches and Agencies of foreign banks (other than Federal branches, Federal Agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 *et seq.*, and 611 *et seq.*).

§ 222.41 Definitions.

For purposes of this subpart and Appendix E of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

(1) Reflects the terms of and liability for the account or other relationship;

(2) Reflects the consumer's performance and other conduct with respect to the account or other relationship; and

(3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to

consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;

(2) Is acting as a "consumer reporting agency" as defined in section 603(f) of the Fair Credit Reporting Act;

(3) Is a consumer to whom the furnished information pertains; or

(4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that the Board has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(ii) Listed in section I.(b)(2)(iii) of Appendix E of this part.

§ 222.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in Appendix E of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

§ 222.43 Direct disputes.

(a) *General rule.* Except as otherwise provided in this section, a furnisher must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher with an account or other relationship with the consumer);

(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: a copy of the relevant portion of the consumer report that contains the allegedly inaccurate information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer pursuant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section

611(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous or irrelevant.* A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form describing the general nature of such information.

■ 3. A new appendix E to part 222 is added to read as follows:

Appendix E to Part 222—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

The Board encourages voluntary furnishing of information to consumer reporting agencies. Section 222.42 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information it furnishes to consumer reporting agencies. Under § 222.42(b) of this part, a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 222.42(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. Nature, Scope, and Objectives of Policies and Procedures

(a) *Nature and Scope.* Section 222.42(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

- (1) The types of business activities in which the furnisher engages;
- (2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and
- (3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

(1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:

- (i) Identifies the appropriate consumer;
- (ii) Reflects the terms of and liability for those accounts or other relationships; and
- (iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;

(2) To furnish information about accounts or other relationships with a consumer that has integrity, such that the furnished information:

- (i) Is substantiated by the furnisher's records at the time it is furnished;
- (ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; thus, the furnished information should:

(A) Include appropriate identifying information about the consumer to whom it pertains; and

(B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and

(iii) Includes the credit limit, if applicable and in the furnisher's possession;

(3) To conduct reasonable investigations of consumer disputes and take appropriate

actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

(i) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and

(ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. Establishing and Implementing Policies and Procedures

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

(1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;

(2) Reviewing its historical records relating to accuracy or integrity or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;

(3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;

(4) Obtaining feedback from the furnisher's staff; and

(5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

III. Specific Components of Policies and Procedures

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers

to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations.

Federal Deposit Insurance Corporation 12 CFR Chapter III

Authority and Issuance

■ For the reasons discussed in the joint preamble, the Federal Deposit Insurance Corporation amends chapter III of title 12 of the Code of Federal Regulations by amending 12 CFR part 334 as follows:

PART 334—FAIR CREDIT REPORTING

■ 1. The authority citation for part 334 is revised to read as follows:

Authority: 12 U.S.C. 1818, 1819 (Tenth), and 1831p-1; 15 U.S.C. 1681a, 1681b, 1681c, 1681m, 1681s, 1681s-2, 1681s-3, 1681t, 1681w, 6801 *et seq.*, Pub. L. 108-159, 117 Stat. 1952.

■ 2. Add subpart E to part 334 to read as follows:

Subpart E—Duties of Furnishers of Information

Sec.

334.40 Scope.

334.41 Definitions.

334.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

334.43 Direct disputes.

Subpart E—Duties of Furnishers of Information

§ 334.40 Scope.

This subpart applies to a financial institution or creditor that is an insured state nonmember bank, insured state licensed branch of a foreign bank, or a subsidiary of such entities (except dealers, persons providing insurance, investment companies, and investment advisers).

§ 334.41 Definitions.

For purposes of this subpart and Appendix E of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

(1) Reflects the terms of and liability for the account or other relationship;

(2) Reflects the consumer's performance and other conduct with respect to the account or other relationship; and

(3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;

(2) Is acting as a "consumer reporting agency" as defined in section 603(f) of the Fair Credit Reporting Act;

(3) Is a consumer to whom the furnished information pertains; or

(4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that the FDIC has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(ii) Listed in section I.(b)(2)(iii) of Appendix E of this part.

§ 334.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in Appendix E of this part in developing its policies and procedures required by this section,

and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

§ 334.43 Direct disputes.

(a) *General rule.* Except as otherwise provided in this section, a furnisher must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher with an account or other relationship with the consumer);

(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: a copy of the relevant portion of the consumer report that contains the allegedly inaccurate information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer pursuant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section

611(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous or irrelevant.* A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form describing the general nature of such information.

■ 3. Add a new appendix E to part 334 to read as follows:

Appendix E to Part 334—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

The FDIC encourages voluntary furnishing of information to consumer reporting agencies. Section 334.42 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information it furnishes to consumer reporting agencies. Under § 334.42(b), a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 334.42(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. Nature, Scope, and Objectives of Policies and Procedures

(a) *Nature and Scope.* Section 334.42(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

- (1) The types of business activities in which the furnisher engages;
- (2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and
- (3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

(1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:

- (i) Identifies the appropriate consumer;
- (ii) Reflects the terms of and liability for those accounts or other relationships; and
- (iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;

(2) To furnish information about accounts or other relationships with a consumer that has integrity, such that the furnished information:

- (i) Is substantiated by the furnisher's records at the time it is furnished;
- (ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; thus, the furnished information should:

- (A) Include appropriate identifying information about the consumer to whom it pertains; and
 - (B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and
 - (iii) Includes the credit limit, if applicable and in the furnisher's possession;
- (3) To conduct reasonable investigations of consumer disputes and take appropriate

actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

- (i) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and
- (ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. Establishing and Implementing Policies and Procedures

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

(1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;

(2) Reviewing its historical records relating to accuracy or integrity or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;

(3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;

(4) Obtaining feedback from the furnisher's staff; and

(5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

III. Specific Components of Policies and Procedures

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers

to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations.

Department of the Treasury
Office of Thrift Supervision
12 CFR Chapter V

Authority and Issuance

■ For the reasons discussed in the joint preamble, the Office of Thrift Supervision amends chapter V of title 12 of the Code of Federal Regulations by amending 12 CFR Part 571 as follows:

PART 571—FAIR CREDIT REPORTING

■ 1. The authority citation for part 571 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828, 1831p-1, and 1881-1884; 15 U.S.C. 1681b, 1681c, 1681m, 1681s, 1681s-2, 1681s-3, 1681t, and 1681w; 15 U.S.C. 6801 and 6805; Sec. 214 Pub. L. 108-159, 117 Stat. 1952.

Subpart A—General Provisions

■ 2. Amend § 571.1 by adding a new paragraph (b)(5) to read as follows:

§ 571.1 Purpose and scope.

* * * * *

(b) * * *

(5) The scope of subpart E of this part is stated in § 571.40 of this part.

* * * * *

■ 3. Add a new subpart E to part 571 to read as follows:

Subpart E—Duties of Furnishers of Information

Sec.

571.40 Scope.

571.41 Definitions.

571.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

571.43 Direct disputes.

Subpart E—Duties of Furnishers of Information

§ 571.40 Scope.

Subpart E of this part applies to savings associations whose deposits are insured by the Federal Deposit Insurance Corporation or, in accordance with § 559.3(h)(1) of this chapter, Federal savings association operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)).

§ 571.41 Definitions.

For purposes of this subpart and Appendix E of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

(1) Reflects the terms of and liability for the account or other relationship;

(2) Reflects the consumer's performance and other conduct with respect to the account or other relationship; and

(3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;

(2) Is acting as a "consumer reporting agency" as defined in section 603(f) of the Fair Credit Reporting Act;

(3) Is a consumer to whom the furnished information pertains; or

(4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that OTS has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(ii) Listed in section I.(b)(2)(iii) of Appendix E of this part.

§ 571.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in Appendix E of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

§ 571.43 Direct disputes.

(a) *General rule.* Except as otherwise provided in this section, a furnisher must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute

relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher with an account or other relationship with the consumer);

(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: A copy of the relevant portion of the consumer report that contains the allegedly inaccurate

information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer pursuant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the

determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous or irrelevant.* A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form describing the general nature of such information.

■ 3. Add a new Appendix E to part 571 to read as follows:

Appendix E to Part 571—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

OTS encourages voluntary furnishing of information to consumer reporting agencies. Section 571.42 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information it furnishes to consumer reporting agencies. Under § 571.42(b), a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 571.42(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. Nature, Scope, and Objectives of Policies and Procedures

(a) *Nature and Scope.* Section 571.42(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

(1) The types of business activities in which the furnisher engages;

(2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and

(3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

(1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:

(i) Identifies the appropriate consumer;

(ii) Reflects the terms of and liability for those accounts or other relationships; and

(iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;

(2) To furnish information about accounts or other relationships with a consumer that

has integrity, such that the furnished information:

(i) Is substantiated by the furnisher's records at the time it is furnished;

(ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; thus, the furnished information should:

(A) Include appropriate identifying information about the consumer to whom it pertains; and

(B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and

(iii) Includes the credit limit, if applicable and in the furnisher's possession;

(3) To conduct reasonable investigations of consumer disputes and take appropriate actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

(i) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and

(ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. Establishing and Implementing Policies and Procedures

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

(1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;

(2) Reviewing its historical records relating to accuracy or integrity or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;

(3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;

(4) Obtaining feedback from the furnisher's staff; and

(5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

III. Specific Components of Policies and Procedures

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations.

National Credit Union Administration 12 CFR Chapter VII

Authority and Issuance

■ For the reasons discussed in the joint preamble, the National Credit Union Administration amends chapter VII of title 12 of the Code of Federal Regulations by amending 12 CFR part 717 as follows:

PART 717—FAIR CREDIT REPORTING

■ 1. Revise the authority citation for part 717 to read as follows:

Authority: 12 U.S.C. 1751 *et seq.*; 15 U.S.C. 1681a, 1681b, 1681c, 1681m, 1681s, 1681s-1, 1681t, 1681w, 6801 and 6805, Public Law 108-159, 117 Stat. 1952.

■ 2. Add a new subpart E to part 717 to read as follows:

Subpart E—Duties of Furnishers of Information

717.40 Scope.

717.41 Definitions.

717.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

717.43 Direct disputes.

Subpart E—Duties of Furnishers of Information

§ 717.40 Scope.

This subpart applies to a Federal credit union that furnishes information to a consumer reporting agency.

§ 717.41 Definitions.

For purposes of this subpart and Appendix E of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

(1) Reflects the terms of and liability for the account or other relationship;

(2) Reflects the consumer's performance and other conduct with respect to the account or other relationship; and

(3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;

(2) Is acting as a "consumer reporting agency" as defined in section 603(f) of the Fair Credit Reporting Act;

(3) Is a consumer to whom the furnished information pertains; or

(4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that the NCUA has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(ii) Listed in section I.(b)(2)(iii) of Appendix E of this part.

§ 717.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and

integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in Appendix E of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

§ 717.43 Direct disputes.

(a) *General rule.* Except as otherwise provided in this section, a furnisher must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher with an account or other relationship with the consumer);

(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: a copy of the relevant portion of the consumer report that contains the allegedly inaccurate information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer

pursuant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous*

or irrelevant. A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form describing the general nature of such information.

■ 3. Add a new appendix E to part 717 to read as follows:

Appendix E to Part 717—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

The NCUA encourages voluntary furnishing of information to consumer reporting agencies. Section 717.42 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information it furnishes to consumer reporting agencies. Under § 717.42(b), a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 717.42(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. Nature, Scope, and Objectives of Policies and Procedures

(a) *Nature and Scope.* Section 717.42(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

(1) The types of business activities in which the furnisher engages;

(2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and

(3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

(1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:

(i) Identifies the appropriate consumer;

(ii) Reflects the terms of and liability for those accounts or other relationships; and

(iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;

(2) To furnish information about accounts or other relationships with a consumer that has integrity, such that the furnished information:

(i) Is substantiated by the furnisher's records at the time it is furnished;

(ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected

in a consumer report; thus, the furnished information should:

(A) Include appropriate identifying information about the consumer to whom it pertains; and

(B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and

(iii) Includes the credit limit, if applicable and in the furnisher's possession;

(3) To conduct reasonable investigations of consumer disputes and take appropriate actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

(i) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and

(ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. Establishing and Implementing Policies and Procedures

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

(1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;

(2) Reviewing its historical records relating to accuracy or integrity or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;

(3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;

(4) Obtaining feedback from the furnisher's staff; and

(5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to

consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

III. Specific Components of Policies and Procedures

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations.

Federal Trade Commission

16 CFR Chapter I

Authority and Issuance

■ For the reasons discussed in the joint preamble, the Federal Trade Commission adds a new part 660 to title 16 of the Code of Federal Regulations to read as follows:

PART 660—DUTIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES

Sec.

660.1 Scope.

660.2 Definitions.

660.3 Reasonable policies and procedures concerning the accuracy and integrity of furnisher information.

660.4 Direct disputes.

Appendix A to Part 660—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

Authority: 15 U.S.C. 1681s-2(a)(8) and 1681s-2(e); Sec. 312, Pub. L. 108–159, 117 Stat. 1989.

§ 660.1 Scope.

This part applies to furnishers of information to consumer reporting agencies that are subject to administrative enforcement of the FCRA by the Federal Trade Commission pursuant to 15 U.S.C. 1681s(a)(1) (referred to as “furnishers”).

§ 660.2 Definitions.

For purposes of this part and Appendix A of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

(1) Reflects the terms of and liability for the account or other relationship;

(2) Reflects the consumer's performance and other conduct with respect to the account or other relationship; and

(3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained

in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

(1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;

(2) Is acting as a “consumer reporting agency” as defined in section 603(f) of the Fair Credit Reporting Act;

(3) Is a consumer to whom the furnished information pertains; or

(4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that the Commission has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and (ii) Listed in section I.(b)(2)(iii) of Appendix A of this part.

§ 660.3 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in Appendix A

of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

§ 660.4 Direct disputes.

(a) *General rule.* Except as otherwise provided in this section, a furnisher must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher

with an account or other relationship with the consumer);

(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: a copy of the relevant portion of the consumer report that contains the allegedly inaccurate information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer pursuant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous or irrelevant.* A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form

describing the general nature of such information.

Appendix A to Part 660—Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

The Commission encourages voluntary furnishing of information to consumer reporting agencies. Section 660.3 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information it furnishes to consumer reporting agencies. Under § 660.3(b), a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 660.3(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. Nature, Scope, and Objectives of Policies and Procedures

(a) *Nature and Scope.* Section 660.3(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

- (1) The types of business activities in which the furnisher engages;
- (2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and
- (3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

- (1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:
 - (i) Identifies the appropriate consumer;
 - (ii) Reflects the terms of and liability for those accounts or other relationships; and
 - (iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;
- (2) To furnish information about accounts or other relationships with a consumer that has integrity, such that the furnished information:
 - (i) Is substantiated by the furnisher's records at the time it is furnished;
 - (ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; thus, the furnished information should:
 - (A) Include appropriate identifying information about the consumer to whom it pertains; and
 - (B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and
 - (iii) Includes the credit limit, if applicable and in the furnisher's possession;

(3) To conduct reasonable investigations of consumer disputes and take appropriate actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

- (i) Any transfer of an account (e.g., by sale or assignment for collection) to a third party; and
- (ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. Establishing and Implementing Policies and Procedures

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

- (1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;
- (2) Reviewing its historical records relating to accuracy or integrity or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;
- (3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;
- (4) Obtaining feedback from the furnisher's staff; and
- (5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

III. Specific Components of Policies and Procedures

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the Fair Credit Reporting Act and its implementing regulations.

Dated: May 15, 2009.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the
Federal Reserve System June 4, 2009.

Jennifer J. Johnson,

Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, the 29th day of
May 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: April 2, 2009.

By the Office of Thrift Supervision,

John E. Bowman,

Acting Director.

By the National Credit Union
Administration Board on May 21, 2009.

Mary Rupp,

Secretary of the Board.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9-15323 Filed 6-30-09; 8:45 am]

**BILLING CODE 4810-33-P, 6210-01-P, 6714-10-P,
6720-01-P, 7535-01-P, 6750-01-P**

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 41**

[Docket ID OCC–2008–0022]

RIN 1557–AD21

FEDERAL RESERVE SYSTEM**12 CFR Part 222**

[Docket No. R–1300]

RIN 7100–AD18

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 334**

RIN 3064–AD40

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 571**

[Docket No. OTS–2008–0026]

RIN 1550–AC31

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 717****FEDERAL TRADE COMMISSION****16 CFR Part 660**

RIN 3084–AA94

Guidelines for Furnishers of Information to Consumer Reporting Agencies

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); National Credit Union Administration (NCUA); and Federal Trade Commission (FTC).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The OCC, Board, FDIC, OTS, NCUA, and FTC (Agencies) request comment to gather information that would assist the Agencies in considering the development of a possible proposed addition to the furnisher accuracy and integrity guidelines that were issued in today's **Federal Register**. Those guidelines, along with the accompanying

regulations, implement the accuracy and integrity provisions in section 312 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) that amended section 623 of the Fair Credit Reporting Act (FCRA). This advance notice of proposed rulemaking (ANPR) seeks to obtain information that would assist the Agencies in determining whether it would be appropriate to propose an addition to one of the guidelines that would delineate the circumstances under which a furnisher would be expected to provide an account opening date to a consumer reporting agency to promote the integrity of the information. In addition, the Agencies request comment more broadly on whether furnishers should be expected to provide any other types of information to a consumer reporting agency in order to promote integrity.

DATES: Comments must be submitted by August 31, 2009.

ADDRESSES: Because paper mail in the Washington, DC area and at the Agencies is subject to delay, commenters are encouraged to submit comments by e-mail, if possible. Commenters are also encouraged to use the title "Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies" to facilitate the organization and distribution of the comments. Comments submitted to one or more of the Agencies will be made available to all of the Agencies. Interested parties are invited to submit comments to:

OCC: You may submit comments by any of the following methods:

- **Federal eRulemaking Portal—“Regulations.gov”:** Go to <http://www.regulations.gov>, under the “More Search Options” tab click next to the “Advanced Docket Search” option where indicated, select “Comptroller of the Currency” from the agency drop-down menu, then click “Submit.” In the “Docket ID” column, select “OCC–2008–0022” to submit or view public comments and to view supporting and related materials for this advance notice of proposed rulemaking. The “How to Use This Site” link on the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- **Mail:** Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

- **E-mail:** regs.comments@occ.treas.gov.

- **Fax:** (202) 874–5274.
- **Hand Delivery/Courier:** 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “Docket Number OCC–2008–0022” in your comment. In general, OCC will enter all comments received into the docket and publish them on Regulations.gov without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials by any of the following methods:

- **Viewing Comments Electronically:** Go to <http://www.regulations.gov>, under the “More Search Options” tab click next to the “Advanced Docket Search” option where indicated, select “Comptroller of the Currency” from the agency drop-down menu, then click “Submit.” In the “Docket ID” column, select “OCC–2008–0022” to view public comments for this advance notice of proposed rulemaking.

- **Viewing Comments Personally:** You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

- **Docket:** You may also view or request available background documents and project summaries using the methods described above.

Board: You may submit comments, identified by Docket No. R–1300, by any of the following methods:

- **Agency Web site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

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

- **E-mail:** regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

• *FAX:* (202) 452-3819 or (202) 452-3102.
 • *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, identified by the RIN for this rulemaking, by any of the following methods:

• *Agency Web site:* <http://www.fdic.gov/regulations/laws/federal/propose.html>. Follow instructions for submitting comments on the Agency Web site.

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

• *E-Mail:* Comments@FDIC.gov. Include the RIN number in the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275-3342 or (703) 562-2200.

OTS: You may submit comments, identified by OTS-2008-0026, by any of the following methods:

• *Federal eRulemaking Portal "Regulations.gov":* Go to <http://www.regulations.gov>, under the "more Search Options" tab click next to the "Advanced Docket Search" option where indicated, select "Office of Thrift Supervision" from the agency drop down menu, then click "Submit." In the "Docket ID" column, select "OTS-2008-0026" to submit or view public comments and to view supporting and related materials for this advance notice of proposed rulemaking. The "How to Use This Site" link on the

Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

• *E-mail address:* regs.comments@ots.treas.gov. Please include OTS-2008-0026 in the subject line of the message and include your name and telephone number in the message.

• *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* OTS-2008-0026.

• *Fax:* (202) 906-6518.

• *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, *Attention:* Regulation Comments, Chief Counsel's Office, *Attention:* OTS-2008-0026.

• *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting materials received, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

• *Viewing Comments Electronically:* Go to <http://www.regulations.gov>, select "Office of Thrift Supervision" from the agency drop-down menu, then click "Submit." Select Docket ID "OTS-2008-0026" to view public comments for this advance notice of proposed rulemaking.

• *Viewing Comments On-Site:* You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to public.info@ots.treas.gov, or send a facsimile transmission to (202) 906-6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

NCUA: 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 Advance Notice of Proposed Rulemaking Part 717, Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act" 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, VA 22314-3428.

• *Hand Delivery/Courier:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration. Deliver to guard station in the lobby of 1775 Duke Street, Alexandria, VA 22314-3428, on business days between 8 a.m. and 5 p.m.

All public comments are available on the agency's Web site at <http://www.ncua.gov/>

[RegulationsOpinionsLaws/comments](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, VA 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.

FTC: Comments should refer to "Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act, Project No. R611017," and may be submitted by any of the following methods. Comments containing confidential material must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).¹ Comments should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the FTC's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

other State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records and other individually identifiable health information.

• *E-mail:* <https://secure.commentworks.com/ftc-FACTAfurnishers>.

To ensure that the FTC considers an electronic comment, you must file it on the Web-based form found at this Web link and follow the instructions on that form.

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. You may visit this Web site to read this request for public comment and to file an electronic comment. The FTC will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it.

• *Mail or Hand Delivery:* A comment filed in paper form should refer, both in the text and on the envelope, to the name and project number identified above, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex C), 600 Pennsylvania Avenue, NW., Washington, DC 20580.

The FTC Act and other laws the FTC administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the FTC, and will be available to the public on its Web site, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.htm>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT:

OCC: Stephen Van Meter, Assistant Director, Community and Consumer Law Division, (202) 874-5750; Patrick T. Tierney, Senior Attorney, or Carl Kaminski, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874-5090; or Malloy T. Harris, Jr., National Bank Examiner, Compliance Policy, (202) 874-4851, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Amy E. Burke, Senior Attorney, or Jelena McWilliams, Attorney, Division of Consumer and Community Affairs, (202) 452-3667 or

(202) 452-2412; or Anne B. Zorc, Counsel, (202) 452-3876, or Kara L. Handzlik, Attorney, (202) 452-3852, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Glenn S. Gimble, Senior Policy Analyst, (202) 898-6865, Division of Supervision and Consumer Protection; Richard M. Schwartz, Counsel, (202) 898-7424, or Richard B. Foley, Counsel, (202) 898-3784, Legal Division; 550 17th St., NW., Washington, DC 20429.

OTS: April Breslaw, Director, Consumer Regulations, (202) 906-6989; Suzanne McQueen, Consumer Regulations Analyst, Compliance and Consumer Protection Division, (202) 906-6459; or Richard Bennett, Senior Compliance Counsel, Regulations and Legislation Division, (202) 906-7409, at 1700 G Street, NW., Washington, DC 20552.

NCUA: Linda Dent or Regina Metz, Attorneys, Office of General Counsel, phone (703) 518-6540 or fax (703) 518-6569, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

FTC: Clarke W. Brinckerhoff and Pavneet Singh, Attorneys, (202) 326-2252, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Credit Reporting Act (FCRA), which was enacted in 1970, sets standards for the collection, communication, and use of information bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.² In 1996, the Consumer Credit Reporting Reform Act extensively amended the FCRA.³ The FACT Act⁴ further amended the FCRA for various purposes, including improved accuracy of consumer reports.

Section 623 of the FCRA describes the responsibilities of persons that furnish information about consumers (furnishers) to consumer reporting agencies (CRAs).⁵ Section 312 of the FACT Act amended section 623 of the FCRA by requiring the Agencies to issue guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that

they furnish to CRAs and to prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines (referred to in this ANPR as the accuracy and integrity regulations and guidelines).

In this issue of the **Federal Register**, the Agencies promulgated final rules and guidelines to implement section 312 of the FACT Act. Section .41(e)⁶ of the final rules defines the term "integrity" to mean that information that a furnisher provides to a CRA about an account or other relationship with the consumer:

- Is substantiated by the furnisher's records at the time it is furnished;
- Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and
- Includes the information in a furnisher's possession about the account or other relationship that the relevant Agency has:
 - Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and
 - Listed in section I.(b)(2)(iii) of the guidelines.

Section I.(b)(2)(iii) of the guidelines lists a "credit limit, if applicable and in the furnisher's possession." Thus, under the final rule that cross-references this provision of the guidelines, information relating to a consumer that is furnished to a CRA will not be deemed to have "integrity" if it does not include a credit limit, if the account or relationship with the consumer has a credit limit, and the credit limit is in the possession of the furnisher.

The Agencies now seek information to determine if they should include the account opening date as another item to be included in section I.(b)(2)(iii) of the guidelines. The Agencies also request comment on any other items that should be included in section I.(b)(2)(iii) of the guidelines in order to promote the integrity of information furnished to CRAs. Specifically, the Agencies request comment on whether there are other items of information the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, and which the Agencies should

² 15 U.S.C. 1681-1681x.

³ Public Law 104-208, 110 Stat. 3009 (Sept. 20, 1996).

⁴ Public Law 108-159, 117 Stat. 1952 (Dec. 4, 2003).

⁵ Section 623 is codified at 15 U.S.C. 1681s-2.

⁶ Section 660.2(e) in the FTC's rule.

list in section I.(b)(2)(iii) of the guidelines.

II. Account Opening Date

In general, credit scoring models use the following factors to generate a credit score: payment history, credit utilization (amount owed compared to the credit limit), length of credit history (time since accounts opened and time since account activity), number and types of credit accounts, new credit established, types of credit used, and bankruptcy filings.⁷ The Agencies understand that an account opening date may be used to determine the length of a consumer's credit history. A long-established credit history tends to affect positively a consumer's credit score, and may similarly affect other assessments of a consumer's creditworthiness.

The Agencies understand that some furnishers, including furnishers that provide only negative information to CRAs, may not include account opening dates in the information they provide to CRAs. The Agencies are concerned that, for at least some consumers, this practice may result in a lower credit score for the consumer than otherwise would be the case (or otherwise result in a more negative assessment of the consumer's creditworthiness). Therefore, the omission of the account opening date may result in higher costs and reduced access to credit and other products and services and present an incorrect impression of credit and other risks to lenders and other users of consumer reports.

The Agencies also recognize, however, that it is possible that the account opening date may not be a significant factor in determining a credit score in certain credit scoring models or in other assessments of a consumer's creditworthiness; that some credit scoring models and other assessment systems might be adjusted to compensate for the absence of an account opening date; and that other data might effectively be substituted for an account opening date.

III. Request for Comments

The Agencies believe that, in advance of proposing any additions or changes to the accuracy and integrity guidelines, it is appropriate to invite comment from

⁷ See Robert B. Avery, Raphael W. Bostic, Paul S. Calem & Glenn B. Canner, *An Overview of Consumer Data and Credit Reporting*, Federal Reserve Bulletin, vol. 89, at 47–73 (Feb. 2003); Robert B. Avery, Paul S. Calem, Glenn B. Canner & Shannon C. Mok, *Credit Report Accuracy and Access to Credit*, Federal Reserve Bulletin, vol. 90, at 297–322 (Summer 2004).

all interested parties on the following issues:

- To what extent, and under what circumstances, do furnishers provide account opening dates to CRAs? What factors determine whether that information will be provided?
- Would the absence of an account opening date or any other specific item in the information a furnisher provides to a CRA likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living? If so, how, and under what circumstances?
- Does the omission of an account opening date or other items of information otherwise compromise the integrity of information provided by furnishers to CRAs? If so, how, and under what circumstances?
- Should certain types of credit or other products or services be exempt from any proposed guideline for furnishing an account opening date or other items of information? For example, should any such new rules or guidelines be applicable only to mortgage or credit card products? Alternatively, should such rules or guidelines apply only to credit that is "consumer credit" as defined by Regulation Z (12 CFR 226)? Should any other types of credit products or services should be exempt, and, if so, why?
- Should accounts for which both positive and negative activity has been furnished on a regular basis for a certain period of time be exempt from any proposed rule or guideline for furnishing an account opening date or other items of information? If so, what is the appropriate period of time, and why?
- How should "account opening date" or other terms used to identify other items of information be defined, if at all? Are there types of credit or other products or services that, because of their nature, would not have an account opening date or other identified items of information? If so, please identify such credit products or services and explain why they would not have an account opening date or other identified items of information.
- What specific costs and benefits would be incurred and realized by consumers if furnishers were expected to furnish an account opening date or other items of information to CRAs?
- What specific costs and benefits would be incurred and realized by furnishers and users of consumer reports if furnishers were expected to

furnish an account opening date or other items of information to CRAs?

- What would be the effect on the credit reporting system if furnishers were expected to furnish an account opening date or other items of information to CRAs?

In addition, the Agencies specifically invite comment as follows:

The Agencies invite comment from individuals and consumer organizations on the effect on consumers and the credit reporting system if furnishers were required to provide CRAs with an account opening date or other items of information.

In addition, the Agencies recognize that small institutions operate with more limited resources than larger institutions. Thus, the Agencies specifically request comment on the impact on small institutions of a possible future proposal that would require furnishers to furnish more information to CRAs, such as an account opening date, and whether the goals of a possible future proposal could be achieved for small institutions through an alternative approach.

Finally, the Agencies invite comment on how a future proposal could affect the furnishing of information to specialized types of CRAs, such as CRAs that collect information for the purpose of making decisions regarding insurance, employment or tenant screening, or check verification, and to nontraditional CRAs that may only provide information to a limited class of businesses (e.g., medical information providers and tenant screening services).

IV. Regulatory Analysis

Executive Order 12866

Executive Order 12866 requires the preparation of an analysis for agency actions that are "significant regulatory actions." "Significant regulatory actions" are actions that may result in regulations that are likely to:

- 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;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.⁸

This ANPR neither establishes nor proposes any regulatory requirements. Because this ANPR does not contain a specific proposal, information is not available with which to prepare a regulatory analysis. The OCC and OTS will each prepare a regulatory analysis if they proceed with a proposed rule that constitutes a significant regulatory action.

Accordingly, the OCC and OTS solicit comment, information, and data on the potential effects on the economy of any

⁸Executive Order 12866 (Sept. 30, 1993), 58 FR 51735 (Oct. 4, 1993). A "regulatory action" is "any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking." Executive Order 12866, section 3(e).

changes to the guidelines that commenters may recommend. The OCC and OTS encourage commenters to provide information about estimates of costs, benefits, other effects, or any other information. In addition, the OCC and OTS ask commenters to identify or estimate start-up or non-recurring costs separately from costs or effects they believe would be ongoing. Quantitative information would be the most useful. The OCC and OTS will carefully consider the costs and benefits associated with any proposed changes to the guidelines.

Dated: May 15, 2009.

John C. Dugan,
Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, June 4, 2009.

Jennifer J. Johnson,
Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, the 8th day of June 2009.

Robert E. Feldman,
Executive Secretary, Federal Deposit Insurance Corporation.

Dated: April 2, 2009.

By the Office of Thrift Supervision.

John E. Bowman,
Acting Director.

By the National Credit Union Administration Board on May 21, 2009.

Mary Rupp,
Secretary of the Board.

By Direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. E9-15322 Filed 6-30-09; 8:45 am]

BILLING CODE 4810-33-P; 6210-01-P; 6714-10-P; 6720-01-P; 7535-01-P; 6750-01-P



Federal Register

**Wednesday,
July 1, 2009**

Part III

Department of the Treasury

Fiscal Service

**Companies Holding Certificates of
Authority as Acceptable Sureties on
Federal Bonds and as Acceptable
Reinsuring Companies; Notice**

DEPARTMENT OF THE TREASURY**Fiscal Service**

[Dept. Circular 570; 2009 Revision]
Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies

Effective July 1, 2009.

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the Internet or from the Government Printing Office (202) 512-1800. (Interim changes are published in the **Federal Register** and on the Internet as they occur). Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

The most current list of Treasury authorized companies is always available through the Internet at <http://www.fms.treas.gov/c570>. In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)]. If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

David Rebich,

Acting Assistant Commissioner, Management (CFO), Financial Management Service.

Important information is contained in the notes at the end of this circular. Please read the notes carefully.

Accredited Surety and Casualty Company, Inc. (NAIC #26379)

BUSINESS ADDRESS: P.O. Box 140855, Orlando, FL 32814-0855. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: \$2,047,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Acstar Insurance Company (NAIC #22950)

BUSINESS ADDRESS: P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: \$3,084,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION b/: \$3,746,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

All America insurance Company (NAIC #20222)

BUSINESS ADDRESS: P.O. Box 351, Van Wert, OH 45891-0351. PHONE: (419) 238-1010. UNDERWRITING LIMITATION b/: \$10,107,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company (NAIC #13285)

BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: \$1,738,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Allegheny Surety Company (NAIC #34541)

BUSINESS ADDRESS: 4217 Steubenville Pike, Pittsburgh, PA 15205. PHONE: (412) 921-3077. UNDERWRITING LIMITATION b/: \$208,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

See footnotes and notes at the end of this Circular.

ALLIED Property and Casualty Insurance Company (NAIC #42579)

BUSINESS ADDRESS: One West Nationwide Blvd., DSPF-76, Columbus, OH 43215-2220. PHONE: (515) 508-4211. UNDERWRITING LIMITATION b/: \$5,787,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, ND, OH, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMCO Insurance Company (NAIC #19100)

BUSINESS ADDRESS: One West Nationwide Blvd., DSPF-76, Columbus, OH 43215-2220. PHONE: (515) 508-4211. UNDERWRITING LIMITATION b/: \$41,653,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

American Alternative Insurance Corporation (NAIC #19720)

BUSINESS ADDRESS: 555 College Road East—P.O. BOX 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: \$14,574,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: \$21,258,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

American Bankers Insurance Company of Florida (NAIC #10111)

BUSINESS ADDRESS: 11222 Quail Roost Drive, MIAMI, FL 33157-6596. PHONE: (305) 253-2244 x-35611. UNDERWRITING LIMITATION b/: \$44,986,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)

BUSINESS ADDRESS: 333 S. Wabash Ave, Chicago, IL 60604. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: \$11,445,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

American Contractors Indemnity Company (NAIC #10216) 1

BUSINESS ADDRESS: 601 South Figueroa Street, 16th Floor, Los Angeles, CA 90017. PHONE: (310) 649-0990. UNDERWRITING LIMITATION b/: \$5,786,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Economy Insurance Company (NAIC #19690)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: \$30,915,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana. American Fire and Casualty Company (NAIC #24066) BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: \$3,578,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY,

NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company (NAIC #26247)

BUSINESS ADDRESS: 1400 American Lane, Tower I, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: \$15,630,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Hardware Mutual Insurance Company (NAIC #13331)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225-8211. UNDERWRITING LIMITATION b/: \$10,234,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Home Assurance Company (NAIC #19380)

BUSINESS ADDRESS: 70 Pine STREET, NEW YORK, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: \$541,317,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: \$39,452,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Reliable Insurance Company (NAIC #19615)

Business ADDRESS: 8655 East Via De Ventura, STE E200, SCOTTSDALE,

AZ 85258. PHONE: (480) 483-8666. UNDERWRITING LIMITATION b/: \$9,986,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Road Insurance Company (THE) (NAIC #19631)

BUSINESS ADDRESS: One American Road, MD 7600, Dearborn, MI 48126-2701. PHONE: (313) 337-1102. UNDERWRITING LIMITATION b/: \$27,107,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American Safety Casualty Insurance Company (NAIC #39969)

BUSINESS ADDRESS: 100 Galleria Pkwy, S.E. Suite 700, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION b/: \$7,319,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

American Service Insurance Company, Inc. (NAIC #42897)

BUSINESS ADDRESS: 150 Northwest Point, Elk Grove Village, IL 60007-1018. PHONE: (847) 472-6700. UNDERWRITING LIMITATION b/: \$2,167,000. SURETY LICENSES c,f/: AL, FL, GA, HI, IL, IN, IA, MA, MO, NY, ND, OH, PA, TX, VT. INCORPORATED IN: Illinois.

American Southern Insurance Company (NAIC #10235)

BUSINESS ADDRESS: P.O. Box 723030, Atlanta, GA 31139-0030. PHONE: (404) 266-9599. UNDERWRITING LIMITATION b/: \$3,644,000. SURETY LICENSES c,f/: AL, AZ, AR, DE, DC, FL, GA, IL, IN, KS, KY, MD, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

American States Insurance Company (NAIC #19704)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000.

UNDERWRITING LIMITATION b/: \$54,125,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company (NAIC #31380)

BUSINESS ADDRESS: 3905 Vincennes Road, Suite 200, Indianapolis, IN 46268. PHONE: (317) 875-8700. UNDERWRITING LIMITATION b/: \$1,139,000. SURETY LICENSES c./f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Amerisure Mutual Insurance Company (NAIC #23396)

BUSINESS ADDRESS: P.O. Box 2060, Farmington Hills, MI 48333-2060. PHONE: (248) 615-9000. UNDERWRITING LIMITATION b/: \$51,208,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company (NAIC #10308)

BUSINESS ADDRESS: P.O. Box 9023507, San Juan, PR 00902-3507. PHONE: (787) 474-4900. UNDERWRITING LIMITATION b/: \$4,762,000. SURETY LICENSES c./f/: PR. INCORPORATED IN: Puerto Rico.

Arch Insurance Company (NAIC #11150)

BUSINESS ADDRESS: 300 Plaza Three, Jersey City, NJ 07311-1107. PHONE: (201) 743-4000. UNDERWRITING LIMITATION b/: \$57,701,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Arch Reinsurance Company (NAIC #10348)

BUSINESS ADDRESS: 360 Mt. Kemble Avenue, P.O. Box 1988, Morristown, NJ 07962-1988. PHONE: (973) 898-

9575. UNDERWRITING LIMITATION b/: \$24,365,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Nebraska.

Argonaut Insurance Company (NAIC #19801)

BUSINESS ADDRESS: 10101 Reunion Place, Suite 500, San Antonio, TX 78216. PHONE: (800) 470-7958. UNDERWRITING LIMITATION b/: \$28,872,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Illinois.

Associated Indemnity Corporation (NAIC #21865)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: \$7,575,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: California.

Atlantic Bonding Company, Inc. (NAIC #41114)

BUSINESS ADDRESS: 1726 Reisterstown Rd, Ste 212, Pikesville, MD 21208. PHONE: (410) 484-3100. UNDERWRITING LIMITATION b/: \$796,000. SURETY LICENSES c./f/: FL, MD. INCORPORATED IN: Maryland.

Auto-Owners Insurance Company (NAIC #18988)

BUSINESS ADDRESS: P.O. Box 30660, Lansing, MI 48909-8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION b/: \$518,068,000. SURETY LICENSES c./f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, UT, VA, WA, WI. INCORPORATED IN: Michigan.

Axis Insurance Company (NAIC #37273)

BUSINESS ADDRESS: 11680 Great Oaks Way, Ste. 500, Alpharetta, GA 30022. PHONE: (678) 746-9400. UNDERWRITING LIMITATION b/: \$41,419,000. SURETY LICENSES

c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AXIS Reinsurance Company (NAIC #20370)

BUSINESS ADDRESS: 11680 Great Oaks Way, Suite 500, Alpharetta, GA 30022. PHONE: (678) 746-9400. UNDERWRITING LIMITATION b/: \$51,967,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Bankers Insurance Company (NAIC #33162)

BUSINESS ADDRESS: P.O. Box 15707, St. Petersburg, FL 33733. PHONE: (727) 823-4000. UNDERWRITING LIMITATION b/: \$4,130,000. SURETY LICENSES c./f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Florida.

Beazley Insurance Company, Inc. (NAIC #37540)

BUSINESS ADDRESS: 30 Batterson Park Road, Farmington, CT 06032. PHONE: (860) 677-3700. UNDERWRITING LIMITATION b/: \$11,154,000. SURETY LICENSES c./f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Berkley Insurance Company (NAIC #32603)

BUSINESS ADDRESS: 475 Steamboat Road, Greenwich, CT 06830. PHONE: (203) 542-3800. UNDERWRITING LIMITATION b/: \$142,633,000. SURETY LICENSES c./f/: AL, AK, AR, CA, CO, CT, DE, DC, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

Berkley Regional Insurance Company (NAIC #29580)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322.

PHONE: (203) 629-3000.
 UNDERWRITING LIMITATION b/:
 \$61,030,000. SURETY LICENSES
 c./f.: AL, AK, AZ, AR, CA, CO, CT, DE,
 DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
 LA, ME, MD, MA, MI, MN, MS, MO,
 MT, NE, NV, NH, NJ, NM, NY, NC,
 ND, OH, OK, OR, PA, RI, SC, SD, TN,
 TX, UT, VT, VA, WA, WV, WI, WY.
 INCORPORATED IN: Delaware.

**Bituminous Casualty Corporation
 (NAIC #20095)**

BUSINESS ADDRESS: 320-18th Street,
 Rock Island, IL 61201-8744. PHONE:
 (309) 786-5401. UNDERWRITING
 LIMITATION b/: \$23,742,000.
 SURETY LICENSES
 c./f.: AL, AK, AZ, AR, CA, CO, CT, DE,
 DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
 LA, ME, MD, MA, MI, MN, MS, MO,
 MT, NE, NV, NJ, NM, NY, NC, ND,
 OH, OK, OR, PA, RI, SC, SD, TN, TX,
 UT, VT, VA, WA, WV, WI, WY.
 INCORPORATED IN: Illinois.

**Bond Safeguard Insurance Company
 (NAIC #27081)**

BUSINESS ADDRESS: 10002
 Shelbyville Road, Suite 100,
 Louisville, KY 40223. PHONE: (502)
 253-6500. UNDERWRITING
 LIMITATION b/: \$1,871,000. SURETY
 LICENSES c./f.: AL, AZ, AR, CA, CO,
 CT, DE, DC, FL, GA, GU, HI, ID, IL,
 IN, KS, KY, LA, ME, MD, MA, MN,
 MS, MO, MT, NV, NH, NJ, NM, NC,
 ND, OH, OK, RI, SC, SD, TN, TX, UT,
 VA, WA, WV, WI, WY.
 INCORPORATED IN: Illinois.

**Brierfield Insurance Company (NAIC
 #10993)**

BUSINESS ADDRESS: 6300 University
 Parkway, Sarasota, FL 34240. PHONE:
 (800) 226-3224. UNDERWRITING
 LIMITATION b/: \$674,000. SURETY
 LICENSES c./f.: AL, AR, MS, TN.
 INCORPORATED IN: Mississippi.

**British American Insurance Company
 (NAIC #32875)**

BUSINESS ADDRESS: P.O. Box 1590,
 Dallas, TX 75221-1590. PHONE: (214)
 443-5500. UNDERWRITING
 LIMITATION b/: \$3,294,000. SURETY
 LICENSES c./f.: TX. INCORPORATED
 IN: Texas.

**Capitol Indemnity Corporation (NAIC
 #10472)**

BUSINESS ADDRESS: P.O. Box 5900,
 Madison, WI 53705-0900. PHONE:
 (608) 829-4200. UNDERWRITING
 LIMITATION b/: \$16,981,000.
 SURETY LICENSES c./f.: AL, AK, AZ,
 AR, CA, CO, CT, DE, DC, FL, GA, HI,
 ID, IL, IN, IA, KS, KY, LA, ME, MD,
 MA, MI, MN, MS, MO, MT, NE, NV,

NH, NJ, NM, NY, NC, ND, OH, OK,
 OR, PA, PR, RI, SC, SD, TN, TX, UT,
 VA, WA, WV, WI, WY.
 INCORPORATED IN: Wisconsin.

**Carolina Casualty Insurance Company
 (NAIC #10510)**

BUSINESS ADDRESS: P.O. Box 2575,
 Jacksonville, FL 32203-2575. PHONE:
 (904) 363-0900. UNDERWRITING
 LIMITATION b/: \$21,059,000.
 SURETY LICENSES
 c./f.: AL, AK, AZ, AR, CA, CO, CT, DE,
 DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
 LA, ME, MD, MA, MI, MN, MS, MO,
 MT, NE, NV, NH, NJ, NM, NY, NC,
 ND, OH, OK, OR, PA, RI, SC, SD, TN,
 TX, UT, VT, VA, WA, WV, WI, WY.
 INCORPORATED IN: Iowa.

**Centennial Casualty Company (NAIC
 #34568)**

BUSINESS ADDRESS: 2200 Woodcrest
 Place, Suite 200, Birmingham, AL
 35209. PHONE: (205) 877-4500.
 UNDERWRITING LIMITATION b/:
 \$3,869,000. SURETY LICENSES c./f.:
 AL. INCORPORATED IN: Alabama.

**Central Mutual Insurance Company
 (NAIC #20230)**

BUSINESS ADDRESS: P.O. Box 351,
 VAN WERT, OH 45891-0351.
 PHONE: (419) 238-1010.
 UNDERWRITING LIMITATION b/:
 \$38,201,000. SURETY LICENSES
 c./f.: AZ, CA, CO, CT, DE, GA, IL, IN,
 IA, KY, MA, MI, NV, NH, NJ, NM, NY,
 NC, OH, OK, PA, TN, TX, VA.
 INCORPORATED IN: Ohio.

**Century Surety Company (NAIC
 #36951)**

BUSINESS ADDRESS: P.O. BOX
 163340, Columbus, OH 43216-3340.
 PHONE: (614) 895-2000.
 UNDERWRITING LIMITATION b/:
 \$9,139,000. SURETY LICENSES c./f.:
 AZ, IN, OH, WV, WI.
 INCORPORATED IN: Ohio.

**Cherokee Insurance Company (NAIC
 #10642)**

BUSINESS ADDRESS: 34200 Mound
 Road, Sterling Heights, MI 48310.
 PHONE: (800) 201-0450.
 UNDERWRITING LIMITATION b/:
 \$6,822,000. SURETY LICENSES c./f.:
 AL, AZ, AR, CA, CO, CT, DE, GA, IL,
 IN, IA, KS, KY, LA, MD, MA, MI, MN,
 MS, MO, MT, NV, NJ, NM, NY, ND,
 OH, OK, PA, SC, SD, TN, TX, UT, VA,
 WA, WV, WY. INCORPORATED IN:
 Michigan.

**Chrysler Insurance Company (NAIC
 #10499) 2**

BUSINESS ADDRESS: CIMS: 405-26-
 10, P.O. Box 9217, Farmington Hills,

MI 48333-9217. PHONE: (800) 782-
 9164. UNDERWRITING LIMITATION
 b/: \$10,472,000. SURETY LICENSES
 c./f.: AL, AK, AZ, AR, CA, CO, CT, DE,
 DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
 LA, ME, MD, MA, MI, MN, MS, MO,
 MT, NE, NV, NH, NJ, NM, NY, NC,
 ND, OH, OK, OR, PA, RI, SC, SD, TN,
 TX, UT, VT, VA, WA, WV, WI, WY.
 INCORPORATED IN: Michigan.

**Chubb Indemnity Insurance Company
 (NAIC #12777)**

BUSINESS ADDRESS: 15 Mountain
 View Road, Warren, NJ 07059.
 PHONE: (212) 612-4000.
 UNDERWRITING LIMITATION b/:
 \$7,249,000. SURETY LICENSES c./f.:
 AK, AZ, AR, CA, CO, CT, DE, DC, FL,
 GA, HI, ID, IL, IN, IA, KS, KY, LA,
 ME, MD, MA, MI, MN, MS, MO, MT,
 NE, NV, NH, NJ, NM, NY, NC, ND,
 OH, OK, OR, PA, RI, SC, SD, TN, TX,
 UT, VT, VA, WA, WV, WI, WY.
 INCORPORATED IN: New York.

**Cincinnati Casualty Company (The)
 (NAIC #28665)**

BUSINESS ADDRESS: P.O. Box 145496,
 Cincinnati, OH 45250-5496. PHONE:
 (513) 870-2000. UNDERWRITING
 LIMITATION b/: \$26,268,000.
 SURETY LICENSES c./f.: AL, AK, AZ,
 AR, CO, CT, DE, DC, FL, GA, HI, ID,
 IL, IN, IA, KS, KY, LA, ME, MD, MI,
 MN, MS, MO, MT, NE, NV, NH, NM,
 NY, NC, ND, OH, OK, OR, PA, RI, SC,
 SD, TN, TX, UT, VT, VA, WA, WV,
 WI, WY. INCORPORATED IN: Ohio.

**Cincinnati Insurance Company (The)
 (NAIC #10677)**

BUSINESS ADDRESS: P.O. BOX
 145496, Cincinnati, OH 45250-5496.
 PHONE: (513) 870-2000.
 UNDERWRITING LIMITATION b/:
 \$309,761,000. SURETY LICENSES
 c./f.: AL, AK, AZ, AR, CA, CO, CT, DE,
 DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
 LA, ME, MD, MA, MI, MN, MS, MO,
 MT, NE, NV, NH, NJ, NM, NY, NC,
 ND, OH, OK, OR, PA, PR, RI, SC, SD,
 TN, TX, UT, VT, VA, WA, WV, WI,
 WY. INCORPORATED IN: Ohio.

**Citizens Insurance Company of
 America (NAIC #31534)**

BUSINESS ADDRESS: 645 W. Grand
 River Avenue, Howell, MI 48843.
 PHONE: (517) 546-2160.
 UNDERWRITING LIMITATION b/:
 \$63,829,000. SURETY LICENSES
 c./f.: AL, GA, IL, IN, KS, ME, MA, MI,
 MO, NH, NJ, NY, NC, OH, PA, RI, SC,
 VT, VA, WI. INCORPORATED IN:
 Michigan.

Clearwater Insurance Company (NAIC #25070)

BUSINESS ADDRESS: 300 First Stamford Place, Stamford, CT 06902. PHONE: (203) 977-8000. UNDERWRITING LIMITATION b/: \$50,043,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Colonial American Casualty and Surety Company (NAIC #34347)

Business Address: 1400 American Lane, Tower I, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: \$2,320,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

Colonial Surety Company (NAIC #10758)

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION b/: \$1,261,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Commercial Alliance Insurance Company (NAIC #10906)

BUSINESS ADDRESS: 415 Lockhaven Dr., Houston, TX 77073. PHONE: (713) 960-1214. UNDERWRITING LIMITATION b/: \$1,189,000. SURETY LICENSES c,f/: AL, AZ, GA, KS, LA, MS, NM, OK, TX. INCORPORATED IN: Texas.

Companion Property and Casualty Insurance Company (NAIC #12157)

BUSINESS ADDRESS: P.O. Box 100165, Columbia, SC 29202. PHONE: (803) 735-0672. UNDERWRITING LIMITATION b/: \$17,949,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Carolina.

Consolidated Insurance Company (NAIC #22640)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: \$2,222,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company (NAIC #20443)

BUSINESS ADDRESS: 333 S. Wabash Ave, Chicago, IL 60604. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: \$569,497,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Heritage Insurance Company (NAIC #39551)

BUSINESS ADDRESS: 6140 Parkland Blvd, Ste 321, Mayfield Heights, OH 44124. PHONE: (440) 229-3420. UNDERWRITING LIMITATION b/: \$591,000. SURETY LICENSES c,f/: AZ, CA, FL, ID, IL, IN, IA, LA, MD, MN, MS, NV, ND, OH, PA, SC, TN, TX, UT, VA. INCORPORATED IN: Florida.

Continental Insurance Company (The) (NAIC #35289)

BUSINESS ADDRESS: 333 S. Wabash Ave, Chicago, IL 60604. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: \$140,247,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Contractors Bonding and Insurance Company (NAIC #37206)

BUSINESS ADDRESS: P.O. Box 9271, Seattle, WA 98109-0271. PHONE: (206) 628-7200. UNDERWRITING LIMITATION b/: \$9,811,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)

BUSINESS ADDRESS: P.O. Box 363846, San Juan, PR 00936-3846. PHONE: (787) 622-8585. UNDERWRITING LIMITATION b/: \$21,413,000. SURETY LICENSES c,f/: FL, PR. INCORPORATED IN: Puerto Rico.

Cumis Insurance Society, Inc. (NAIC #10847)

BUSINESS ADDRESS: P.O. Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION b/: \$44,876,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

DaimlerChrysler Insurance Company (NAIC #10499) 2**Developers Surety and Indemnity Company (NAIC #12718)**

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623-9725. PHONE: (949) 263-3300. UNDERWRITING LIMITATION b/: \$5,853,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Insurance Company of Wausau (NAIC #21458)

BUSINESS ADDRESS: Post Office Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211. UNDERWRITING LIMITATION b/: \$74,242,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)

BUSINESS ADDRESS: P.O. Box 712, Des Moines, IA 50306-0712. PHONE: (515) 280-2511. UNDERWRITING LIMITATION b/: \$72,376,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,

ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Endurance Reinsurance Corporation of America (NAIC #11551)

BUSINESS ADDRESS: 333 Westchester Avenue, White Plains, NY 10604. PHONE: (914) 468-8000. UNDERWRITING LIMITATION b/: \$59,281,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, WV, WY. INCORPORATED IN: Delaware.

Erie Insurance Company (NAIC #26263)

BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION b/: \$20,953,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, MN, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company (NAIC #26921)

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938-0830. PHONE: (908) 604-3000. UNDERWRITING LIMITATION b/: \$234,238,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company (NAIC #12750)

BUSINESS ADDRESS: 6140 Parkland Blvd, Ste 321, Mayfield Heights, OH 44124. PHONE: (440) 229-3420. UNDERWRITING LIMITATION b/: \$2,555,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company (NAIC #11045)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: \$4,431,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, IN, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT,

VA. INCORPORATED IN: New Hampshire.

Executive Risk Indemnity Inc. (NAIC #35181)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: \$92,173,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Explorer Insurance Company (NAIC #40029)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: \$4,174,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company (NAIC #19194)

BUSINESS ADDRESS: 1122 North Main Street, McPherson, KS 67460. PHONE: (620) 241-2200. UNDERWRITING LIMITATION b/: \$14,315,000. SURETY LICENSES c,f/: AZ, CO, ID, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$26,844,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company (NAIC #13838)

BUSINESS ADDRESS: One West Nationwide Blvd., DSPF-76, Columbus, OH 43215-2220. PHONE: (515) 508-3300. UNDERWRITING LIMITATION b/: \$15,210,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT,

VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

FCCI Insurance Company (NAIC #10178)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240. PHONE: (800) 226-3224 x-2415. UNDERWRITING LIMITATION b/: \$37,006,000. SURETY LICENSES c,f/: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MS, MO, NE, NC, OK, PA, SC, TN. INCORPORATED IN: Florida.

Federal Insurance Company (NAIC #20281)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: \$1,114,159,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Federated Mutual Insurance Company (NAIC #13935)

BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. PHONE: (507) 455-5200. UNDERWRITING LIMITATION b/: \$180,927,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Deposit Company of Maryland (NAIC #39306)

BUSINESS ADDRESS: 1400 American Lane, Tower I, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: \$15,542,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

Fidelity and Guaranty Insurance Company (NAIC #35386)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$1,957,000. SURETY

LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$3,511,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Fidelity National Property and Casualty Insurance Company (NAIC #16578)

BUSINESS ADDRESS: 601 Riverside Ave., Bldg. 5, Suite 200, Jacksonville, FL 32204. PHONE: (800) 849-6140. UNDERWRITING LIMITATION b/: \$8,233,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

Financial Casualty & Surety, Inc. (NAIC #35009)

BUSINESS ADDRESS: 3131 Eastside, Suite 600, Houston, TX 77098. PHONE: (877) 737-2245. UNDERWRITING LIMITATION b/: \$1,069,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, FL, ID, IN, IA, KS, LA, MD, MI, MN, MS, NV, NJ, NY, NC, ND, OH, PA, SC, TN, TX, UT, VT, WA, WV. INCORPORATED IN: Texas.

Financial Pacific Insurance Company (NAIC #31453)

BUSINESS ADDRESS: P.O. Box 292220, Sacramento, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION b/: \$6,408,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: \$286,163,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,

MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

First Founders Assurance Company (NAIC #12150)

BUSINESS ADDRESS: 6 Mill Ridge Lane, Chester, NJ 07930-2486. PHONE: (908) 879-0990. UNDERWRITING LIMITATION b/: \$239,000. SURETY LICENSES c,f/: NJ. INCORPORATED IN: New Jersey.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION b/: \$18,992,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The) (NAIC #33588)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: \$2,168,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America (NAIC #24724)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: \$6,980,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

First Net Insurance Company (NAIC #10972)

BUSINESS ADDRESS: 102 Julale Center, Hagatna, GU 96910. PHONE: (671) 477-8613. UNDERWRITING LIMITATION b/: \$634,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

First Sealord Surety, Inc. (NAIC #28519)

BUSINESS ADDRESS: P.O. Box 900, Villanova, PA 19085. PHONE: (610) 664-2259. UNDERWRITING LIMITATION b/: \$1,146,000. SURETY

LICENSES c,f/: AL, AK, AR, CA, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MS, MO, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

FOLKSAMERICA INSURANCE COMPANY (NAIC #38776) 3

General Insurance Company of America (NAIC #24732)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: \$44,762,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation (NAIC #22039)

BUSINESS ADDRESS: Financial Centre, P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: \$893,685,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

GRANITE RE, INC. (NAIC #26310)

BUSINESS ADDRESS: 14001 Quailbrook Drive, Oklahoma City, OK 73134. PHONE: (405) 752-2600. UNDERWRITING LIMITATION b/: \$1,303,000. SURETY LICENSES c,f/: AZ, AR, CO, IL, IA, KS, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, WI, WY. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: \$3,477,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

GRAY CASUALTY & SURETY COMPANY (THE) (NAIC #10671)

BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009-6202. PHONE: (504) 888-7790. UNDERWRITING LIMITATION b/: \$1,416,000. SURETY LICENSES c,f/: AL, AZ, AR, GA, KY, LA, MS, MO, NV, NM, NC, OK, SC, TN, TX. INCORPORATED IN: Louisiana.

GRAY INSURANCE COMPANY (THE) (NAIC #36307)

BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009-6202. PHONE: (504) 888-7790. UNDERWRITING LIMITATION b/: \$8,280,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Louisiana.

Great American Alliance Insurance Company (NAIC #26832)

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: \$2,742,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company (NAIC #16691)

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: \$128,647,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: \$5,789,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA,

WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: \$38,588,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Greenwich Insurance Company (NAIC #22322)

BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: \$44,451,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Guarantee Company of North America USA (The) (NAIC #36650)

BUSINESS ADDRESS: 25800 Northwestern Highway, Suite 720, Southfield, MI 48075-8410. PHONE: (248) 281-0281 x-6012. UNDERWRITING LIMITATION b/: \$11,286,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Hanover Insurance Company (The) (NAIC #22292)

BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-4476. UNDERWRITING LIMITATION b/: \$90,152,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)

BUSINESS ADDRESS: 702 Oberlin Road, Raleigh, NC 27605-0800.

PHONE: (847) 321-4800. UNDERWRITING LIMITATION b/: \$13,025,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company (NAIC #14168)

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION b/: \$68,000,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company (NAIC #26182)

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION b/: \$12,132,000. SURETY LICENSES c,f/: AL, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company (NAIC #22357)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$199,853,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company (NAIC #29424)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$83,730,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company (NAIC #19682)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$1,249,146,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$131,351,000. SURETY LICENSES c,f/: CT, HI, IL, MI, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$24,015,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$5,303,000. SURETY LICENSES c,f/: CT, FL, GA, KS, LA, MI, PA. INCORPORATED IN: Connecticut.

Hudson Insurance Company (NAIC #25054)

BUSINESS ADDRESS: 17 State Street, 29th Floor, New York, NY 10004. PHONE: (212) 978-2800. UNDERWRITING LIMITATION b/: \$13,511,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

IMT Insurance Company (NAIC #14257)

BUSINESS ADDRESS: P.O. Box 1336, Des Moines, IA 50306-1336. PHONE:

(515) 327-2777. UNDERWRITING LIMITATION b/: \$10,154,000. SURETY LICENSES c,f/: IL, IN, IA, MO, NE, SD, WI. INCORPORATED IN: Iowa.

Indemnity Company of California (NAIC #25550)

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623-9725. PHONE: (949) 263-3300. UNDERWRITING LIMITATION b/: \$1,281,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Indemnity National Insurance Company (NAIC #18468)

BUSINESS ADDRESS: 4800 Old Kingston Pike, Knoxville, TN 37919. PHONE: (865) 934-4360. UNDERWRITING LIMITATION b/: \$1,053,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Independence Casualty and Surety Company (NAIC #10024)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION b/: \$2,187,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company (NAIC #22659)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: \$25,539,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KY, MI, MN, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)

BUSINESS ADDRESS: 3600 Woodview Trace, Indianapolis, IN 46268. PHONE: (800) 428-1441. UNDERWRITING LIMITATION b/: \$3,303,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company (NAIC #23264)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: \$12,286,000. SURETY LICENSES c,f/: AZ, CO, IA,

KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: \$192,684,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: \$35,260,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702-2683. PHONE: (254) 759-3703 x-3727. UNDERWRITING LIMITATION b/: \$831,000. SURETY LICENSES c,f/: NM, OK, TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)

BUSINESS ADDRESS: P.O. Box 70128, San Juan, PR 00936-8128. PHONE: (787) 781-0707 x-200. UNDERWRITING LIMITATION b/: \$6,252,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Fidelity Insurance Company (NAIC #11592) 4

BUSINESS ADDRESS: One Newark Center, Newark, NJ 07102-5207. PHONE: (973) 624-7200. UNDERWRITING LIMITATION b/: \$9,249,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806-1520. PHONE: (808) 564-8200. UNDERWRITING LIMITATION b/: \$11,379,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The) (NAIC #15962)

BUSINESS ADDRESS: P.O. Box 1654, Topeka, KS 66601. PHONE: (785) 228-0000. UNDERWRITING LIMITATION b/: \$14,021,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, GA, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NH, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)

BUSINESS ADDRESS: 200 East Lexington Street, Suite 501, Baltimore, MD 21202. PHONE: (410) 625-0800. UNDERWRITING LIMITATION b/: \$1,597,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Maryland.

Lexon Insurance Company (NAIC #13307)

BUSINESS ADDRESS: 10002 Shelbyville Rd, Suite 100, Louisville, KY 40223. PHONE: (502) 253-6500. UNDERWRITING LIMITATION b/: \$3,923,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Liberty Insurance Corporation (NAIC #42404)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: \$25,541,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Liberty Mutual Fire Insurance Company (NAIC #23035)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: \$81,725,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Liberty Mutual Insurance Company (NAIC #23043)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: \$637,596,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

LM Insurance Corporation (NAIC #33600)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: \$2,038,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Lyndon Property Insurance Company (NAIC #35769)

BUSINESS ADDRESS: 14755 North Outer Forty Rd., Suite 400, St. Louis, MO 63017. PHONE: (636) 536-5600. UNDERWRITING LIMITATION b/: \$14,333,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Markel Insurance Company (NAIC #38970)

BUSINESS ADDRESS: 4600 Cox Road, Glen Allen, VA 23060. PHONE: (800) 431-1270. UNDERWRITING LIMITATION b/: \$9,198,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,

MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company (NAIC #22306)

BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-4476. UNDERWRITING LIMITATION b/: \$4,654,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: \$5,035,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)

BUSINESS ADDRESS: P.O. Box 30060, Lansing, MI 48909-7560. PHONE: (517) 482-6211 x-765. UNDERWRITING LIMITATION b/: \$8,324,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, NC, ND, OH, OK, OR, PA, SD, TN, VA, WA, WI, WY. INCORPORATED IN: Michigan.

Mid-Century Insurance Company (NAIC #21687)

BUSINESS ADDRESS: P.O. Box 2478 Terminal Annex, Los Angeles, CA 90051. PHONE: (323) 932-3200. UNDERWRITING LIMITATION b/: \$60,357,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

Mid-Continent Casualty Company (NAIC #23418) 5

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: \$19,695,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL,

IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Ohio.

Midwestern Indemnity Company (The) (NAIC #23515)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (513) 576-3200. UNDERWRITING LIMITATION b/: \$1,587,000. SURETY LICENSES c,f/: AL, AR, CT, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company (NAIC #30996)

BUSINESS ADDRESS: 107 West Oakland Avenue, Austin, MN 55912. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: \$153,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motorists Mutual Insurance Company (NAIC #14621)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225-8211. UNDERWRITING LIMITATION b/: \$40,927,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)

BUSINESS ADDRESS: 300 Galleria Officentre, Southfield, MI 48034. PHONE: (248) 263-6900. UNDERWRITING LIMITATION b/: \$169,236,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Munich Reinsurance America, Inc. (NAIC #10227)

BUSINESS ADDRESS: 555 College Road East—P.O. Box 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: \$344,848,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National American Insurance Company (NAIC #23663)

BUSINESS ADDRESS: P.O. Box 9, Chandler, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION b/: \$5,107,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

National Casualty Company (NAIC #11991)

BUSINESS ADDRESS: One West Nationwide Blvd., DSPF-76, Columbus, OH 43215-2220. PHONE: (480) 365-4000. UNDERWRITING LIMITATION b/: \$10,656,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

National Farmers Union Property and Casualty Company (NAIC #16217)

BUSINESS ADDRESS: 5619 DTC Parkway, Suite 300, Greenwood Village, CO 80111-3136. PHONE: (303) 337-5500. UNDERWRITING LIMITATION b/: \$9,564,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Colorado.

National Fire Insurance Company of Hartford (NAIC #20478)

BUSINESS ADDRESS: 333 S. Wabash Ave, Chicago, IL 60604. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: \$11,139,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Indemnity Company (NAIC #20087)

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131-3580. PHONE: (402) 536-3000. UNDERWRITING LIMITATION b/: \$2,761,313,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE,

DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation (NAIC #21881)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (312) 346-6400. UNDERWRITING LIMITATION b/: \$23,229,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: \$1,182,542,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nations Bonding Company (NAIC #11595)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: \$322,000. SURETY LICENSES c,f/: PA, TX. INCORPORATED IN: Texas.

Nationwide Mutual Insurance Company (NAIC #23787)

BUSINESS ADDRESS: One West Nationwide Blvd., DSPF-76, Columbus, OH 43215-2220. PHONE: (614) 249-7111. UNDERWRITING LIMITATION b/: \$1,030,558,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Navigators Insurance Company (NAIC #42307)

BUSINESS ADDRESS: 6 International Drive, Rye Brook, NY 10573. PHONE: (914) 934-8999. UNDERWRITING LIMITATION b/: \$58,117,000.

SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: New York.

Netherlands Insurance Company (The) (NAIC #24171)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: \$12,021,000.
SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company (NAIC #23841)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: \$149,468,000.
SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Pennsylvania.

NGM Insurance Company (NAIC #14788)

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (904) 380-7282. UNDERWRITING LIMITATION b/: \$58,134,000. SURETY LICENSES c./f.: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

North American Specialty Insurance Company (NAIC #29874)

BUSINESS ADDRESS: 650 Elm Street, Manchester, NH 03101. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: \$21,263,000.
SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: New Hampshire.

Northwestern Pacific Indemnity Company (NAIC #20338)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (503) 221-4240.
UNDERWRITING LIMITATION b/: \$1,418,000. SURETY LICENSES c./f.: CA, OK, OR, TX, WA.
INCORPORATED IN: Oregon.

NOVA Casualty Company (NAIC #42552)

BUSINESS ADDRESS: Suite 1020, 726 Exchange Street, Buffalo, NY 14210. PHONE: (716) 856-3722.
UNDERWRITING LIMITATION b/: \$8,604,000. SURETY LICENSES c./f.: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY.
INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The) (NAIC #24074)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: \$79,260,000.
SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company (NAIC #24104)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101.
UNDERWRITING LIMITATION b/: \$107,555,000. SURETY LICENSES c./f.: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)

BUSINESS ADDRESS: 250 East Broad Street, 7th Floor, Columbus, OH 43215. PHONE: (614) 228-2800.
UNDERWRITING LIMITATION b/: \$4,517,000. SURETY LICENSES c./f.: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Ohio.

Oklahoma Surety Company (NAIC #23426) 6

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: \$1,269,000. SURETY LICENSES c./f.: AR, KS, LA, OH, OK, TX.
INCORPORATED IN: Ohio.

Old Dominion Insurance Company (NAIC #40231)

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (904) 642-3000. UNDERWRITING LIMITATION b/: \$2,615,000. SURETY LICENSES c./f.: CT, DE, FL, GA, ME, MD, MA, NH, NY, NC, PA, RI, SC, TN, VT, VA.
INCORPORATED IN: Florida.

Old Republic General Insurance Corporation (NAIC #24139)

BUSINESS ADDRESS: 307 North Michigan Avenue, Chicago, IL 60601. PHONE: (312) 346-8100.
UNDERWRITING LIMITATION b/: \$25,521,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Illinois.

Old Republic Insurance Company (NAIC #24147)

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601-0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: \$80,483,000.
SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)

BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. PHONE: (262) 797-2640. UNDERWRITING LIMITATION b/: \$4,279,000. SURETY LICENSES c./f.: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY.
INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621)

BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021-1030. PHONE: (781) 332-7000.
UNDERWRITING LIMITATION b/:

\$29,629,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

OneBeacon Insurance Company (NAIC #21970)

BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021-1030. PHONE: (781) 332-7000. UNDERWRITING LIMITATION b/: \$86,964,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company (NAIC #20346)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: \$183,174,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Pacific Indemnity Insurance Company (NAIC #18380)

BUSINESS ADDRESS: 348 West O'Brien Drive, Hagatna, GU 96910. PHONE: (671) 477-8801. UNDERWRITING LIMITATION b/: \$682,000. SURETY LICENSES c./f.: GU, MP. INCORPORATED IN: Guam.

Partner Reinsurance Company of the U.S. (NAIC #38636)

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: \$50,463,000. SURETY LICENSES c./f.: AL, AK, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, OH, TX, UT, WV. INCORPORATED IN: New York.

Partnerre Insurance Company of New York (NAIC #10006)

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: \$10,368,000. SURETY LICENSES c./f.: AL, AZ, CA, CO, DE, DC, ID, IL,

IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WV, WI. INCORPORATED IN: New York.

Peerless Indemnity Insurance Company (NAIC #18333)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (630) 505-1442. UNDERWRITING LIMITATION b/: \$17,994,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Peerless Insurance Company (NAIC #24198)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: \$157,591,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company (NAIC #24228)

BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. PHONE: (309) 346-1161. UNDERWRITING LIMITATION b/: \$8,502,000. SURETY LICENSES c./f.: IL, IN, IA, MI, OH, WI. INCORPORATED IN: Illinois.

Penn Millers Insurance Company (NAIC #14982)

BUSINESS ADDRESS: P.O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION b/: \$4,283,000. SURETY LICENSES c./f.: AL, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pennsylvania General Insurance Company (NAIC #21962)

BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021-1030. PHONE: (781) 332-7000. UNDERWRITING LIMITATION b/: \$12,814,000. SURETY LICENSES c./f.: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK,

OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. PHONE: (717) 234-4941. UNDERWRITING LIMITATION b/: \$42,716,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Philadelphia Indemnity Insurance Company (NAIC #18058)

BUSINESS ADDRESS: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004-1403. PHONE: (610) 617-7900 x-7680. UNDERWRITING LIMITATION b/: \$120,504,000. SURETY LICENSES c./f.: AL, AK, CA, CO, DE, DC, HI, ID, IL, IN, IA, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company (NAIC #12670)

BUSINESS ADDRESS: 333 W. Hampden Avenue, Suite 815, Englewood, CO 80110. PHONE: (303) 649-9163. UNDERWRITING LIMITATION b/: \$672,000. SURETY LICENSES c./f.: AZ, CO, KS, MO, MT, NE, NV, NM, UT, WY. INCORPORATED IN: Colorado.

Platte River Insurance Company (NAIC #18619)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705-0900. PHONE: (608) 829-4200. UNDERWRITING LIMITATION b/: \$2,972,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Plaza Insurance Company (NAIC #30945)

BUSINESS ADDRESS: 700 West 47th Street, Suite 350, Kansas City, MO 64112. PHONE: (816) 412-1800. UNDERWRITING LIMITATION b/: \$1,021,000. SURETY LICENSES c./f.: AL, AK, AZ, AR, CA, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN,

TX, UT, WA, WV, WI, WY.
INCORPORATED IN: Missouri.

ProCentury Insurance Company (NAIC #21903)

BUSINESS ADDRESS: P.O. Box 163340, Columbus, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: \$3,123,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, DE, DC, GA, IN, IA, KS, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OK, PA, SC, SD, TX, UT, WV, WI, WY. INCORPORATED IN: Texas.

Progressive Casualty Insurance Company (NAIC #24260)

BUSINESS ADDRESS: P.O. Box 89490, Cleveland, OH 44101-6490. PHONE: (440) 461-5000. UNDERWRITING LIMITATION b/: \$121,451,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company (NAIC #12416)

BUSINESS ADDRESS: P.O. Box 7099, Indianapolis, IN 46207. PHONE: (317) 636-9800 x-356. UNDERWRITING LIMITATION b/: \$20,489,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Republic—Franklin Insurance Company (NAIC #12475)

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION b/: \$3,708,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Indemnity Company (NAIC #28860)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: \$3,845,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX,

UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Illinois.

RLI Insurance Company (NAIC #13056)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: \$63,960,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Roche Surety and Casualty Company, Inc. (NAIC #42706)

BUSINESS ADDRESS: 1910 Orient Road, Tampa, FL 33619. PHONE: (813) 623-5042. UNDERWRITING LIMITATION b/: \$655,000. SURETY LICENSES c,f/: AK, AZ, AR, CT, DE, FL, GA, ID, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, ND, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WA. INCORPORATED IN: Florida.

Rockwood Casualty Insurance Company (NAIC #35505)

BUSINESS ADDRESS: 654 Main Street, Rockwood, PA 15557. PHONE: (814) 926-4661. UNDERWRITING LIMITATION b/: \$9,005,000. SURETY LICENSES c,f/: AK, AZ, AR, CO, GA, ID, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NV, NM, NC, OH, OK, OR, PA, SC, SD, TX, UT, VA, WV. INCORPORATED IN: Pennsylvania.

SAFECO Insurance Company of America (NAIC #24740)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: \$71,266,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Safety National Casualty Corporation (NAIC #15105)

BUSINESS ADDRESS: 1832 Schuetz Road, St. Louis, MO 63146-4235. PHONE: (314) 995-5300. UNDERWRITING LIMITATION b/: \$53,091,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,

ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Missouri.

Sagamore Insurance Company (NAIC #40460)

BUSINESS ADDRESS: P.O. Box 7099, Indianapolis, IN 46207. PHONE: (317) 636-9800 x-356. UNDERWRITING LIMITATION b/: \$10,929,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, CT, DE, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Indiana.

SECURA Insurance, A Mutual Company (NAIC #22543)

BUSINESS ADDRESS: P.O. Box 819, Appleton, WI 54912-0819. PHONE: (920) 739-3161. UNDERWRITING LIMITATION b/: \$20,621,000. SURETY LICENSES c,f/: AZ, AR, CO, IL, IN, IA, KS, MI, MN, MO, ND, PA, SD, WA, WI. INCORPORATED IN: Wisconsin.

Selective Insurance Company of America (NAIC #12572)

BUSINESS ADDRESS: 40 Wantage Avenue, Branchville, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: \$45,168,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc. (NAIC #10936)

BUSINESS ADDRESS: 160 Water Street, New York, NY 10038-4922. PHONE: (212) 344-3000. UNDERWRITING LIMITATION b/: \$14,576,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company (NAIC #24988)

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481-8020. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: \$258,226,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,

ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company (NAIC #21180)

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481-8020. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: \$22,456,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Service Insurance Company (NAIC #36560)

BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206-9729. PHONE: (800) 780-8423. UNDERWRITING LIMITATION b/: \$1,437,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Florida.

Service Insurance Company Inc. (THE) (NAIC #28240)

BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731-7650. UNDERWRITING LIMITATION b/: \$390,000. SURETY LICENSES c,f/: CT, DE, NJ, NY, PA. INCORPORATED IN: New Jersey.

Southwest Marine and General Insurance Company (NAIC #12294)

BUSINESS ADDRESS: 919 Third Avenue, New York, NY 10022. PHONE: (212) 551-0600. UNDERWRITING LIMITATION b/: \$2,641,000. SURETY LICENSES c,f/: AL, AZ, DC, HI, ID, IN, KY, LA, MD, MI, MS, MO, MT, NE, NV, ND, OH, OK, PA, SC, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Arizona.

St. Paul Fire and Marine Insurance Company (NAIC #24767)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$406,674,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Guardian Insurance Company (NAIC #24775)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$2,627,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company (NAIC #24791)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$6,366,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The) (NAIC #19070)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$130,728,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)

BUSINESS ADDRESS: 26255 American Drive, Southfield, MI 48034. PHONE: (248) 358-1100. UNDERWRITING LIMITATION b/: \$19,989,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Auto Property and Casualty Insurance Company (NAIC #25127)

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION b/: \$48,443,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DC, FL, GA,

IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, WY. INCORPORATED IN: Iowa.

State Automobile Mutual Insurance Company (NAIC #25135)

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION b/: \$98,962,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company (NAIC #25143)

BUSINESS ADDRESS: One State Farm Plaza, Bloomington, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION b/: \$818,465,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Stonebridge Casualty Insurance Company (NAIC #10952)

BUSINESS ADDRESS: 4333 Edgewood Road NE, Cedar Rapids, IA 52499. PHONE: (319) 355-8511. UNDERWRITING LIMITATION b/: \$12,792,000. SURETY LICENSES c,f/: AL, AZ, CO, DC, GA, HI, ID, IL, IN, IA, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Ohio.

Suretec Insurance Company (NAIC #10916)

BUSINESS ADDRESS: 952 Echo Lane, Suite 450, Houston, TX 77024. PHONE: (713) 812-0800. UNDERWRITING LIMITATION b/: \$5,853,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI. INCORPORATED IN: Texas.

Surety Bonding Company of America (NAIC #24047)

BUSINESS ADDRESS: P.O. Box 5111, Sioux Falls, SD 57117-5111. PHONE: (605) 336-0850. UNDERWRITING LIMITATION b/: \$744,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO,

DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY.
INCORPORATED IN: South Dakota.

Swiss Reinsurance America Corporation (NAIC #25364)

BUSINESS ADDRESS: 175 King Street, Armonk, NY 10504. PHONE: (914) 828-8000. UNDERWRITING LIMITATION b/: \$388,007,000. SURETY LICENSES c./f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WI.
INCORPORATED IN: New York.

Texas Pacific Indemnity Company (NAIC #20389)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (214) 754-0777. UNDERWRITING LIMITATION b/: \$472,000. SURETY LICENSES c./f/: AR, TX. INCORPORATED IN: Texas.

Transatlantic Reinsurance Company (NAIC #19453)

BUSINESS ADDRESS: 80 Pine Street, New York, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION b/: \$353,415,000. SURETY LICENSES c./f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI.
INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$321,937,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America (NAIC #31194)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$173,498,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,

ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Connecticut.

Travelers Casualty Insurance Company of America (NAIC #19046)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$49,963,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Connecticut.

Travelers Indemnity Company (The) (NAIC #25658)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$796,224,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Trinity Universal Insurance Company (NAIC #19887)

BUSINESS ADDRESS: 12926 Gran Bay Parkway West, Jacksonville, FL 32258. PHONE: (904) 245-5600. UNDERWRITING LIMITATION b/: \$82,892,000. SURETY LICENSES c./f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

U.S. Specialty Insurance Company (NAIC #29599)

BUSINESS ADDRESS: 13403 Northwest Freeway, Houston, TX 77040-6094. PHONE: (713) 462-1000. UNDERWRITING LIMITATION b/: \$30,181,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Texas.

ULLICO Casualty Company (NAIC #37893)

BUSINESS ADDRESS: 1625 Eye St., NW., Washington, DC 20006. PHONE: (202) 682-6925. UNDERWRITING LIMITATION b/: \$8,297,000. SURETY

LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United Casualty and Surety Insurance Company (NAIC #36226)

BUSINESS ADDRESS: 170 Milk Street, Boston, MA 02109. PHONE: (617) 542-3232 x-109. UNDERWRITING LIMITATION b/: \$390,000. SURETY LICENSES c./f/: CT, DC, FL, MD, MA, NH, NJ, NY, ND, PA.
INCORPORATED IN: Massachusetts.

United Fire & Casualty Company (NAIC #13021)

BUSINESS ADDRESS: P.O. Box 73909, CEDAR RAPIDS, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: \$53,846,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY.
INCORPORATED IN: Iowa.

United Fire & Indemnity Company (NAIC #19496)

BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: \$1,460,000. SURETY LICENSES c./f/: AL, CO, IN, KY, LA, MS, MO, NM, TX. INCORPORATED IN: Texas.

United States Fidelity and Guaranty Company (NAIC #25887)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$206,589,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Maryland.

United States Fire Insurance Company (NAIC #21113)

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07962. PHONE: (973) 490-6600. UNDERWRITING LIMITATION b/: \$52,055,000. SURETY LICENSES c./f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,

ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United States Surety Company (NAIC #10656)

BUSINESS ADDRESS: P.O. Box 5605, Timonium, MD 21094-5605. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: \$3,743,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV. INCORPORATED IN: Maryland.

United Surety and Indemnity Company (NAIC #44423)

BUSINESS ADDRESS: P.O. Box 2111, San Juan, PR 00922-2111. PHONE: (787) 625-1105. UNDERWRITING LIMITATION b/: \$5,088,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL INSURANCE COMPANY (NAIC #31704)

BUSINESS ADDRESS: G.P.O Box 71338, San Juan, PR 00936. PHONE: (787) 706-7155. UNDERWRITING LIMITATION b/: \$21,359,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)

BUSINESS ADDRESS: P.O.Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: \$8,229,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

Universal Underwriters Insurance Company (NAIC #41181)

BUSINESS ADDRESS: 1400 American Lane, Tower I, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: \$34,877,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

Utica Mutual Insurance Company (NAIC #25976)

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION b/: \$68,897,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI,

ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Van Tol Surety Company, Incorporated (NAIC #30279)

BUSINESS ADDRESS: 520 6th Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION b/: \$423,000. SURETY LICENSES c,f/: SD. INCORPORATED IN: South Dakota.

Victore Insurance Company (NAIC #28517)

BUSINESS ADDRESS: 909 S. Meridian Ave., Suite 700, Oklahoma City, OK 73108-1605. PHONE: (405) 602-0700. UNDERWRITING LIMITATION b/: \$351,000. SURETY LICENSES c,f/: OK, TX. INCORPORATED IN: Oklahoma.

Vigilant Insurance Company (NAIC #20397)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612-4000. UNDERWRITING LIMITATION b/: \$15,263,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company (NAIC #32778)

BUSINESS ADDRESS: 1200 Arlington Heights Road, Suite 400, Itasca, IL 60143. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: \$6,078,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

West American Insurance Company (NAIC #44393)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: \$20,703,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC,

SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

West Bend Mutual Insurance Company (NAIC #15350)

BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334-5571 x-6523. UNDERWRITING LIMITATION b/: \$39,717,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, MO, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #21121)

BUSINESS ADDRESS: 436 Walnut Street, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640-1000. UNDERWRITING LIMITATION b/: \$75,953,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company (NAIC #10008)

BUSINESS ADDRESS: 675 West Moana Lane, Suite 200, Reno, NV 89509. PHONE: (775) 829-6650. UNDERWRITING LIMITATION b/: \$1,888,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, MT, NE, NV, NM, OH, OK, OR, PA, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Nevada.

Western Surety Company (NAIC #13188)

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117-5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION b/: \$54,720,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: \$58,607,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH,

OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: \$15,456,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, IA, KY, MI, MN, ND, OH, PA, SD, TN, TX, WV, WI. INCORPORATED IN: Ohio.

Westport Insurance Corporation (NAIC #39845)

BUSINESS ADDRESS: 5200 Metcalf Ave. OPN 232, Overland Park, KS 66201. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: \$181,127,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

White Mountains Reinsurance Company of America (NAIC #38776) 3

BUSINESS ADDRESS: One Liberty Plaza—19th Floor, New York, NY 10006-1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: \$70,877,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

XL Reinsurance America Inc. (NAIC #20583)

BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: \$169,285,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)

BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: \$18,175,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS,

KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Zurich American Insurance Company (NAIC #16535)

BUSINESS ADDRESS: 1400 American Lane, Tower I, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: \$555,614,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Companies Holding Certificates of Authority as Acceptable Reinsuring Companies Under Section 223.3(b) of Treasury Circular No. 297. [See Note (e)]

Odyssey America Reinsurance Corporation (NAIC #23680)

BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8000. UNDERWRITING LIMITATION b/: \$231,580,000. SURETY LICENSES c,f/:

Phoenix Insurance Company (The) (NAIC #25623)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: \$117,019,000. SURETY LICENSES c,f/:

Platinum Underwriters Reinsurance, Inc. (NAIC #10357)

BUSINESS ADDRESS: 225 Liberty Street, Suite 2300, New York, NY 10281-1008. PHONE: (212) 238-9600. UNDERWRITING LIMITATION b/: \$57,407,000. SURETY LICENSES c,f/:

SAFECO Insurance Company of Illinois (NAIC #39012)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: \$15,960,000. SURETY LICENSES c,f/:

SAFECO National Insurance Company (NAIC #24759)

BUSINESS ADDRESS: 1001 Fourth Ave, Safeco Plaza, Seattle, WA 98154. PHONE: (206) 545-5000.

UNDERWRITING LIMITATION b/: \$5,717,000. SURETY LICENSES c,f/:

St. Paul Protective Insurance Company (NAIC #19224)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: \$23,388,000. SURETY LICENSES c,f/:

FOOTNOTES

¹ AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC# 10216) is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY. However, business is conducted in all other covered states as AMERICAN CONTRACTORS INDEMNITY COMPANY.

² DaimlerChrysler Insurance Company (NAIC# 10499) formally changed its name to Chrysler Insurance Company effective January 1, 2009.

³ FOLKSAMERICA INSURANCE COMPANY (NAIC# 38776) formally changed its name to WHITE MOUNTAINS REINSURANCE COMPANY OF AMERICA effective July 8, 2008.

⁴ International Fidelity Insurance Company's (NAIC# 11592) name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

⁵ MID-CONTINENT CASUALTY COMPANY (NAIC# 23418) redomesticated from the state of Oklahoma to the state of Ohio effective August 25, 2008.

⁶ Oklahoma Surety Company (NAIC# 23426) redomesticated from the state of Oklahoma to the state of Ohio effective August 25, 2008.

Notes

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis*. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with 31 CFR Section 223.10, Section 223.11. Treasury refers to a *bond of this type as an Excess Risk*. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(c) A surety company *must be licensed in the State or other area in which it provides a bond*, but need not be licensed in the State or other area in which the principal resides

or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5(b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state

insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds and may not directly write Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state.* Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

State insurance departments	Telephone No.
Alabama, Montgomery 36104	(334) 269-3550
Alaska, Anchorage 99501-3567	(907) 269-7900
Arizona, Phoenix 85018-7256	(602) 364-3100
Arkansas, Little Rock 72201-1904	(501) 371-2600
California, Sacramento 95814	(916) 492-3500
Colorado, Denver 80202	(303) 894-7499
Connecticut, Hartford 06142-0816	(860) 297-3800
Delaware, Dover 19904	(302) 674-7300
District of Columbia, Washington 20002	(202) 442-7813
Florida, Tallahassee 32399-0300	(850) 413-2850
Georgia, Atlanta 30334	(404) 656-2056
Hawaii, Honolulu 96813	(808) 586-2790
Idaho, Boise 83720-0043	(208) 334-4250
Illinois, Springfield 62767-0001	(217) 782-4515
Indiana, Indianapolis 46204-2787	(317) 232-2385
Iowa, Des Moines 50319	(515) 281-5705
Kansas, Topeka 66612-1678	(785) 296-3071
Kentucky, Frankfort 40602-0517	(502) 564-6027
Louisiana, Baton Rouge 70802	(225) 342-5423
Maine, Augusta 04333-0034	(207) 624-8475
Maryland, Baltimore 21202-2272	(410) 468-2090
Massachusetts, Boston 02110	(617) 521-7794
Michigan, Lansing 48933-1020	(517) 373-0220
Minnesota, St. Paul 55101-2198	(651) 296-6025
Mississippi, Jackson 39201	(601) 359-3569
Missouri, Jefferson City 65102	(573) 751-4126
Montana, Helena 59601	(406) 444-2040
Nebraska, Lincoln 68508	(402) 471-2201
Nevada, Carson City 89701-5753	(775) 687-4270
New Hampshire, Concord 03301	(603) 271-2261
New Jersey, Trenton 08625	(609) 292-5360
New Mexico, Santa Fe 87504-1269	(800) 947-4722
New York, New York 10004-2319	(212) 480-2289
North Carolina, Raleigh 27611	(919) 807-6750
North Dakota, Bismarck 58505-0320	(701) 328-2440
Ohio, Columbus 43215-1067	(614) 644-2658
Oklahoma, Oklahoma City 73107	(405) 521-2828
Oregon, Salem 97301-3883	(503) 947-7980
Pennsylvania, Harrisburg 17120	(717) 783-0442
Puerto Rico, Santurce 00909	(787) 722-8686
Rhode Island, Providence 02903-4233	(401) 462-9500
South Carolina, Columbia 29202-3105	(803) 737-6160
South Dakota, Pierre 57501-3185	(605) 773-4104
Tennessee, Nashville 37243-0565	(615) 741-2176
Texas, Austin 78701	(800) 578-4677
Utah, Salt Lake City 84114-1201	(801) 538-3800
Vermont, Montpelier 05620-3101	(802) 828-3301
Virginia, Richmond 23218	(800) 552-7945
Virgin Islands, St. Thomas 00802	011-(340) 774-7166
Washington, Olympia 98504-0255	(360) 725-7144
West Virginia, Charleston 25305-0540	(304) 558-3354
Wisconsin, Madison 53707-7873	(608) 266-3586
Wyoming, Cheyenne 82002-0440	(307) 777-7401



Federal Register

Wednesday,
July 1, 2009

Part IV

Department of Defense General Services Administration National Aeronautics and Space Administration

48 CFR Chapter 1, Parts 2, 4, et al.
Federal Acquisition Regulation; Federal
Acquisition Circular 2005-34;
Introduction; FAR Cases 2006-022, 2008-
009, 2008-028; Federal Acquisition
Regulation; Federal Acquisition Circular
2005-32; Small Entity Compliance Guide;
Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2009-0001, Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-34; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005-34. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates and comment dates, see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005-34 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

LIST OF RULES IN FAC 2005-34

Item	Subject	FAR case	Analyst
I	Contractor Performance Information	2006-022	Parnell.
II	Prohibition on Contracting with Inverted Domestic Corporations (Interim)	2008-009	Murphy.
III	Role of Interagency Committee on Debarment and Suspension	2008-028	Loeb.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005-34 amends the FAR as specified below:

Item I—Contractor Performance Information (FAR Case 2006-022)

This final rule amends the FAR to revise the contractor performance information process. The FAR revisions include changes to FAR Parts 2, 8, 9, 13, 17, 36, 42, and 53. The purpose of this final rule is to ensure that the FAR clearly reflects the use of the Governmentwide performance information repository, Past Performance Information Retrieval System (PPIRS) at <http://www.ppirs.gov>; requires the evaluation of past performance for orders exceeding the simplified acquisition threshold placed against Federal Supply Schedule contracts, or under a task order or delivery order against a contract awarded by another Federal agency (*i.e.* Governmentwide acquisition contract or multi-agency contract); recommends past performance information for orders under single agency contracts; consolidates the collection of past performance guidance in Part 42; and, clarifies that the Agency shall identify those responsible for preparing interim and final evaluations.

Item II—Prohibition on Contracting with Inverted Domestic Corporations (FAR Case 2008-009) (Interim)

This interim rule implements Section 743 of Division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8), which prohibits the award of contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of one. The interim rule addresses solicitations issued after the date of publication using funds appropriated in Fiscal Years 2006, 2007, and 2008, as well.

Item III—Role of Interagency Committee on Debarment and Suspension (FAR Case 2008-028)

This final rule amends Federal Acquisition Regulation Subpart 9.4 to clarify the role of the Interagency Committee on Debarment and Suspension when more than one agency has an interest in the debarment or suspension of a contractor. Among other responsibilities, the Interagency Committee on Debarment and Suspension is authorized to resolve issues regarding the agency that will have lead responsibility in initiating a suspension or debarment proceeding. The Committee will also coordinate actions among interested agencies with respect to such action. This rule implements the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Section 873(a)(1) and (2).

Dated: June 25, 2009.

Al Matera,

Director, Office of Acquisition Policy.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-34 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-34 is effective July 1, 2009 except for Item III, which is effective July 31, 2009.

Dated: June 20, 2009.

Shay D. Assad,

Director of Defense Procurement and Acquisition Policy.

Dated: June 23, 2009.

Rodney P. Lantier,

Acting Senior Procurement Executive, Office of the Chief Acquisition Officer, U.S. General Services Administration.

Dated: June 24, 2009.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. E9-15437 Filed 6-30-09; 8:45 am]

BILLING CODE 6820-EP-S

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 2, 8, 9, 13, 17, 36, 42, and
53**[FAC 2005–34; FAR Case 2006–022; Item
I; Docket 2008–0002; Sequence 2]

RIN 9000–AK99

**Federal Acquisition Regulation; FAR
Case 2006–022, Contractor
Performance Information****AGENCIES:** Department of Defense (DoD),
General Services Administration (GSA),
and National Aeronautics and Space
Administration (NASA).**ACTION:** Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise the contractor performance information process. This change primarily emphasizes the use of a standard performance information reporting system, the Past Performance Information Retrieval System (PPIRS). This change aligns with the President's March 4, 2009 Memorandum on Government Contracting specifically with regards to managing the Government's risk associated with the goods and services being procured and ensuring projects are completed effectively and efficiently.

DATES: *Effective Date:* July 1, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–34, FAR case 2006–022.

SUPPLEMENTARY INFORMATION:**A. Background**

Past performance information (PPI) can decrease the Government's risk in contracting by rating, at a minimum, quality of work, timeliness, cost, and business relations of contractors for projects above a specified threshold. PPI incentivizes contractors to perform well in order to be rewarded with future contracts.

The Office of Federal Procurement Policy (OFPP) and the Chief Acquisition Officer's Acquisition Council for E-GOV

(ACE) established a working group to review regulations, policies, and guidance associated with contractor performance information. The working group proposed changes to a number of FAR parts. The Councils have agreed to some, but not all the changes under this final rule.

The purpose of the final rule is to ensure that the FAR clearly reflects the use of the Governmentwide performance information repository, Past Performance Information Retrieval System (PPIRS) at <http://www.ppirs.gov>; requires the evaluation of past performance for orders exceeding the simplified acquisition threshold placed against Federal Supply Schedule contracts, or under a task order or delivery order against a contract awarded by another Federal agency (i.e. Governmentwide acquisition contract or multi-agency contract); recommends past performance information for orders under single agency contracts; consolidates the collection of past performance guidance in FAR Part 42; and, clarifies that the Agency shall identify those responsible for preparing interim and final evaluations.

The Councils published a proposed rule with request for comments in the **Federal Register** at 73 FR 17945, April 2, 2008. Forty comments from ten respondents were received.

B. Discussion of Public Comments

The comments received were grouped under five general topics. A summary of these topics and a discussion of the comments and the changes made to the proposed rule as a result of those comments are provided below:

Miscellaneous Comments

Comment: One Respondent recommended adding a definition for "completed contracts" under FAR 2.101.

Response: The definition of past performance is revised from "completed contracts" to "physically completed contracts."

Comment: One respondent disagreed with the revisions as written in the third person.

Response: In this particular instance, third person is appropriate. There was no change made to the final rule as a result of this comment.

Comment: Two respondents suggested adding language to include the FAR clause 52.219–8, Utilization of Small Business Concerns, as well as the FAR clause 52.219–9, Small Business Subcontracting Plan, which requires an assessment of the other nine elements of a subcontracting plan and utilizing small businesses.

Response: This case addresses goals as required by FAR 52.219–9. This case continues the current FAR focus on compliance with the goals. There was no change made to the final rule as a result of this comment.

Comment: One respondent recommended that past performance assessments should address small business utilization as a whole in addition to subcontracting plan requirements by referencing FAR 52.219–8 and 52.219–16.

Response: It is not beneficial to further reference FAR 52.219–8, Utilization of Small Business Concerns, as addressed in the preceding comment and response. Furthermore, it is not beneficial to include a reference to FAR 52.219–16, Liquidated Damages—Subcontracting Plan, since this clause establishes procedures for the payment of liquidated damages in the event that the contractor failed to meet the requirements established under FAR 52.219–9, and does not set forth contractual performance requirements that may be assessed. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested that the requirement for the inclusion of FAR 52.219–9, Small Business Subcontracting, be excepted for delivery or task orders against Federal Supply Schedules or Governmentwide contracts.

Response: Contractor subcontracting plans under Federal Supply Schedules and Governmentwide contracts are established on a contract level, not task order level. The Councils agree that it would be inappropriate to require an evaluation of contractor performance for individual task orders against a small business subcontracting plan that has been established on a contract level for Federal Supply Schedules and Governmentwide contracts. Contracting officers may include such an assessment on single agency task order and delivery order contracts when deemed appropriate. FAR 42.1502(c) and (d) are revised to reflect this change.

Comment: One respondent indicated support for the proposed rule as written.

Response: The Councils have noted this comment.

Past Performance Information Retrieval System (PPIRS)

Comment: One respondent recommended two changes - changing from the "Government wide Past Performance Information Retrieval System (PPIRS)" to the "Government wide past Performance Information Retrieval System-Report Card (PPIRS-RC)," and adding an additional

paragraph to reference the PPIRS-Report Card.

Response: PPIRS is the universally accepted database used by all agencies. The FAR does not preclude the usage of additional systems. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested revising the performance information system to improve access to provide more timely, accurate and detailed performance assessments for acquisition personnel.

Response: These kinds of improvements to the past performance system are outside the scope of this case. This rule, however, will improve the contractor performance information process. There was no change made to the final rule as a result of this comment.

Comment: Two respondents suggested including a reference to PPIRS in FAR 15.305(a)(2).

Response: There was no intent to change the evaluation criteria set forth in FAR 15.305. There was no change made to the final rule as a result of this comment.

Comment: One respondent recommended moving the language from FAR 42.1503(e) to FAR Part 15 since this language appears to be information regarding source selection.

Response: This language deals with retention of past performance information rather than required procedures to be utilized in a source selection, and is therefore a post award function that is appropriately retained in FAR 42.1503(e). There was no change made to the final rule as a result of this comment.

Comment: One respondent recommended clarification for information retention. The respondent suggested the following language: "Agencies shall not retain past performance information longer than three years (six years for construction and architect engineer contracts.)"

Response: These documents are part of the official contract file and must be retained. The intent of this language is to ensure that past performance data is current and relevant. The use of the past performance information that may be obtained from PPIRS for acquisition evaluations is limited to the 3-year timeframe (six years for construction and architect engineer contracts). PPIRS archives past performance data three years after the data is input into PPIRS. There was no change made to the final rule as a result of this comment.

Comment: One respondent questioned the period of retention of past

performance information for construction.

Response: This language was merely consolidated and relocated under FAR Part 42 without change. Due to the nature of construction and A&E contracts, retention of such past performance information is necessarily longer than for contracts for other products/services. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested the wording is unclear in FAR 42.1503(e).

Response: The language was revised to delete "For source selection purposes" to clarify that this is a post award function rather than a source selection function.

Comment: One respondent suggested adding another paragraph to FAR 42.1503 to address information retention.

Response: Previous FAR language regarding retaining records is outdated. Rather than being destroyed, PPIRS electronic records will be retained through archiving beyond the specified 3 and 6 year timeframes. The language was revised at the time of the proposed rule to reflect timeframes for access and use of this information. There was no change made to the final rule as a result of this comment.

Past Performance Reporting

Comment: One respondent recommended changing the term "evaluation" to "assessment" or "report card."

Response: The terms "evaluation" and "assessment", as used in FAR Part 42, are synonymous in this context. There was no change made to the final rule as a result of this comment.

Comment: One respondent would like a clarification to the language that states that agencies shall submit past performance reports electronically to PPIRS in accordance with agency procedures.

Response: The intent of the language is to require submission of past performance evaluations to PPIRS in a method prescribed under agency procedures. The language at FAR 42.1503(c) has been revised to clarify that the process for submitting such reports to PPIRS shall be in accordance with agency procedures.

Comment: One respondent recommended additional language in the last sentence of FAR 42.1502(a) as follows: "The content and format of performance evaluations shall be established in accordance with agency procedures and should be tailored to the size, content, and complexity of the requirements."

Response: The Councils interpret the intent of the comment was to obtain greater detail in the evaluations. The language is sufficient as proposed. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested expanding the case to cover responsibilities for negative past performance information received from surveys or questionnaires.

Response: The FAR already has sufficient provisions allowing contracting officers to discuss negative past performance information with offerors. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested that some form of incentive or other documented means be provided to encourage and ensure that information is timely provided into the system.

Response: This is a requirement of agencies in the normal course of duties assigned to their designated personnel as required in FAR 42.1502 and 42.1503. As such, an additional incentive would be inappropriate. There was no change made to the final rule as a result of this comment.

Comment: Three respondents suggested that the identification of an "individual" responsible for preparing evaluations is too restrictive and recommended flexibility for each agency to determine the responsible individual or individuals by title or organizational element.

Response: The Councils agree with the comment. The language at FAR 42.1503(a) is revised to read "Agency procedures shall identify those responsible for preparing interim and final evaluations."

Comment: One respondent recommended that past performance evaluations should be required for all contracts that are terminated for default.

Response: The Councils have noted this comment and will consider this issue under a separate rule. There was no change made to the final rule as a result of this comment.

Past Performance Evaluation

Comment: One respondent recommended that evaluations over the simplified acquisition threshold be submitted when "an extraordinary event or occurrence takes place." Furthermore, the respondent questioned the value of performance evaluations on each order over the simplified acquisition threshold.

Response: The information is necessary and required. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested a change to the mandatory evaluation of orders over the simplified acquisition threshold from “shall” to “may.”

Response: The Councils do not agree with changing “shall” to “may.” It is the intent of this rule to capture the universe of contracts which includes task orders against basic contracts. Likewise, nothing prevents prudent contracting officers from addressing extraordinary circumstances on contracts under the simplified acquisition threshold where a past performance evaluation may be warranted. There was no change made to the final rule as a result of this comment.

Comment: Two respondents recommended revising FAR 13.106–2(b)(3)(ii) to read “May be based on one or more of the following:” to encourage contracting officers to use more than one tool in identifying offerors’ past performance information.

Response: The Councils agree with this comment. FAR 13.106–2(b)(3)(ii) is revised to read “May be based on one or more of the following:”

Comment: One respondent suggested that PPIRS is not a mandatory source of information and that other sources are available.

Response: PPIRS is the universally accepted database used by all agencies. PPIRS is not the only source for past performance information that may be utilized in source selection evaluations. However, under this rule, agencies are now required to submit past performance information to PPIRS. Agencies will establish procedures to effect these electronic submissions. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested amending FAR 13.106–2(b)(3)(ii) to include other available sources as previously addressed.

Response: FAR 13.106–2(b)(3)(ii) is revised to read “May be based on one or more of the following:”

Comment: Two respondents recommended defining “relevant past performance information.”

Response: Relevancy is subjective and should be left to the contracting officer’s discretion on a case by case basis. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested providing objective criteria and weights for acquisition officials.

Response: This requirement is addressed in FAR 15.305(a)(2)(i). These past performance evaluations are subjective based on the current acquisition. Assigning weighted values to evaluation criteria, including past

performance, is the purview of the Source Selection Authority. There was no change made to the final rule as a result of this comment.

Thresholds

Comment: One respondent recommended that the reference to the Simplified Acquisition Threshold (SAT) should be limited to the lowest dollar value for the SAT in the definition of FAR 2.1.

Response: Due to the extraordinary nature of the performance under contracts that qualify for higher simplified acquisition thresholds, it would not be appropriate to require the preparation of evaluations at the lowest SAT for each contract. Agency designated personnel have the discretion to prepare and submit to PPIRS an evaluation of contractor performance at any threshold when they deem it appropriate. There was no change made to the final rule as a result of this comment.

Comment: One respondent suggested that the threshold specific to orders placed against an FSS, GWAC, or other multi-agency contract be raised to \$550,000 rather than all orders exceeding the SAT.

Response: It is the intent of this rule to capture the universe of contracts that includes task orders against basic contracts. There was no change made to the final rule as a result of this comment.

Comment: Two respondents recommended changing the language in FAR 42.1502(c) and 42.1502(d) as follows: “task order contract or a delivery order contract” to “indefinite-delivery contract.”

Response: The phrase “task order contract or delivery order contract” is more specific. This change was not intended to cover definite quantity contracts as proposed by the commenter. There was no change made to the final rule as a result of this comment.

Summary of Changes to the Proposed Rule

The Councils made the following changes to the proposed rule as a result of the public comments and Council deliberations. The final rule reflects the following changes:

FAR 2.101

The definition of past performance was revised to clarify the term “completed contract” as one that is physically completed in accordance with FAR 4.804–4.

FAR 8.406–7

The addition of language to advise ordering activities that past performance evaluations required in FAR 42.1502(c) are applicable to orders.

FAR 13.106–2

Language was revised to encourage contracting officers to utilize more than one tool in identifying offerors’ past performance information.

FAR 42.1502(c) and (d)

Language was added to clarify the consideration of small business goals in past performance evaluations for Governmentwide acquisition contracts, multi-agency contracts, and single-agency task order and delivery order contracts.

FAR 42.1503(a)

Language was revised to clarify that agency procedures shall identify those responsible for preparing interim and final evaluations.

FAR 42.1503(c)

Language was revised to clarify that agencies shall be responsible for establishing procedures for reporting past performance information to PPIRS.

FAR 42.1503(e)

Language was revised to delete the phrase “For source selection purposes” in order to clarify that this language deals with retention of past performance information rather than required procedures to be utilized in a source selection.

C. Regulatory Analyses

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any additional requirements on small businesses. The collection and reporting of past performance information is an internal process to the Government. The rule merely puts into effect the current practices of prudent contracting officers. In addition, the rule provides clearer instruction to contracting officers by restating in a better format the current language.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Parts 2, 8, 9, 13, 17, 36, 42, and 53

Government procurement.

Dated: June 25, 2009.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 8, 9, 13, 17, 36, 42, and 53 as set forth below:

1. The authority citation for 48 CFR parts 2, 8, 9, 13, 17, 36, 42, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 in paragraph (b)(2) by adding, in alphabetical order, the definition "Past performance" to read as follows:

2.101 Definitions.

* * * * *

(b) * * *
(2) * * *

Past performance means an offeror's or contractor's performance on active and physically completed contracts (see 4.804-4).

* * * * *

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

3. Add section 8.406-7 to read as follows:

8.406-7 Contractor Performance Evaluation.

Ordering activities must prepare an evaluation of contractor performance for each order that exceeds the simplified acquisition threshold in accordance with 42.1502(c).

PART 9—CONTRACTOR QUALIFICATIONS

4. Amend section 9.105-1 by revising the second sentence of the introductory text of paragraph (c); and removing paragraph (c)(7). The revised text reads as follows:

9.105-1 Obtaining information.

* * * * *

(c) * * * In addition to the Governmentwide performance information repository, Past Performance Information Retrieval System (PPIRS) (at www.ppirs.gov), the contracting officer should use the following sources of information to support such determinations:

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

5. Amend section 13.106-2 by revising paragraph (b)(3)(ii) to read as follows:

13.106-2 Evaluation of quotations or offers.

* * * * *

(b) * * *
(3) * * *

(ii) May be based on one or more of the following:

- (A) The contracting officer's knowledge of and previous experience with the supply or service being acquired;
(B) Customer surveys, and past performance questionnaire replies;
(C) The Governmentwide Past Performance Information Retrieval System (PPIRS) at www.ppirs.gov; or
(D) Any other reasonable basis.

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

6. Amend section 17.207 by removing from the end of paragraph (c)(3) the word "and"; removing the period from the end of paragraph (c)(4) and adding "and" in its place; and adding paragraph (c)(5) to read as follows:

17.207 Exercise of options.

* * * * *

(c) * * *

(5) The contractor is not listed on the Excluded Parties List System (EPLS) (see FAR 9.405-1).

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

7. Revise section 36.201 to read as follows:

36.201 Evaluation of contractor performance.

See 42.1502(e) for the requirements for preparing past performance evaluations for construction contracts.

36.602-3 [Amended]

8. Amend section 36.602-3 by removing from paragraph (a) "36.604" and adding "36.603" in its place.
9. Amend section 36.603 by revising paragraph (d)(4); and removing from paragraph (d)(5) "36.604(c)" and adding "42.1502(f)" in its place. The revised text reads as follows:

36.603 Collecting data on and appraising firms qualifications.

* * * * *

(d) * * *

(4) Assuring that the file contains a copy of each pertinent performance evaluation (see 42.1502(f)).

* * * * *

10. Revise section 36.604 to read as follows:

36.604 Performance evaluation.

See 42.1502(f) for the requirements for preparing past performance evaluations for architect-engineer contracts.

36.701 [Amended]

11. Amend section 36.701 by removing paragraph (d).

36.702 [Amended]

12. Amend section 36.702 by removing paragraph (c).

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

13. Revise section 42.1502 to read as follows:

42.1502 Policy.

(a) Past performance evaluations shall be prepared as specified in paragraphs (b) through (g) of this section at the time the work under the contract or order is completed. In addition, interim evaluations shall be prepared as specified by the agencies to provide current information for source selection purposes, for contracts or orders with a period of performance, including options, exceeding one year. These evaluations are generally for the entity, division, or unit that performed the contract or order. The content of the evaluations should be tailored to the size, content, and complexity of the contractual requirements.

(b) Except as provided in paragraphs (e), (f) and (h) of this section, agencies shall prepare an evaluation of contractor performance for each contract that exceeds the simplified acquisition threshold.

(c) Agencies shall prepare an evaluation of contractor performance for each order that exceeds the simplified acquisition threshold placed against a Federal Supply Schedule contract, or under a task order contract or a delivery order contract awarded by another agency (i.e. Governmentwide acquisition contract or multi-agency contract). This evaluation shall not consider the requirements under paragraph (g) of this section.

(d) For single-agency task order and delivery order contracts, the contracting officer may require performance evaluations for each order in excess of the simplified acquisition threshold when such evaluations would produce more useful past performance

information for source selection officials than that contained in the overall contract evaluation (e.g., when the scope of the basic contract is very broad and the nature of individual orders could be significantly different). This evaluation need not consider the requirements under paragraph (g) of this section unless the contracting officer deems it appropriate.

(e) Past performance evaluations shall be prepared for each construction contract of \$550,000 or more, and for each construction contract terminated for default regardless of contract value. Past performance evaluations may also be prepared for construction contracts below \$550,000.

(f) Past performance evaluations shall be prepared for each architect-engineer services contract of \$30,000 or more, and for each architect-engineer services contract that is terminated for default regardless of contract value. Past performance evaluations may also be prepared for architect-engineer services contracts below \$30,000.

(g) Past performance evaluations shall include an assessment of contractor performance against, and efforts to achieve, the goals identified in the small business subcontracting plan when the contract includes the clause at 52.219-9, Small Business Subcontracting Plan.

(h) Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

■ 14. Amend section 42.1503 by revising paragraphs (a), (c), (d), and (e) to read as follows:

42.1503 Procedures.

(a) Agency procedures for the past performance evaluation system shall generally provide for input to the evaluations from the technical office, contracting office and, where appropriate, end users of the product or service. Agency procedures shall identify those responsible for preparing interim and final evaluations. Those individuals identified may obtain information for the evaluation of performance from the program office, administrative contracting office, end users of the product or service, and any other technical or business advisor, as appropriate. Interim evaluations shall be prepared as required.

* * * * *

(c) Agencies shall submit past performance reports electronically to the Past Performance Information Retrieval System (PPIRS) at www.ppirs.gov. The process for submitting such reports to PPIRS shall be in accordance with agency procedures.

(d) Any past performance information systems used for maintaining contractor performance information and/or evaluations should include appropriate management and technical controls to ensure that only authorized personnel have access to the data.

(e) Agencies shall use the past performance information in PPIRS that is within three years (six for construction and architect-engineer contracts) of the completion of performance of the evaluated contract or order.

PART 53—FORMS

53.236-1 Construction.

■ 15. Amend section 53.236-1 by removing and reserving paragraph (a).

■ 16. Amend section 53.236-2 by revising the section heading as set forth below; and removing paragraph (c). The revised text reads as follows:

53.236-2 Architect-engineer services (SF's 252 and 330).

* * * * *

53.301-1420 and 53.301-1421 [Removed]

■ 17. Remove sections 53.301-1420 and 53.301-1421.

[FR Doc. E9-15436 Filed 6-30-09; 8:45 am]

BILLING CODE 6820-EP-S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 9, and 52

[FAC 2005-34; FAR Case 2008-009; Item II; Docket 2009-0020, Sequence 1]

RIN 9000-AL28

Federal Acquisition Regulation; FAR Case 2008-009, Prohibition on Contracting with Inverted Domestic Corporations

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 743 of Division D of the Omnibus Appropriations Act, 2009 (Public Law

111-8). Section 743 of Division D of this Act prohibits the award of contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of one.

The Department of Homeland Security (DHS) has had its own rule prohibiting contracting with inverted domestic corporations since December 2003 (see 48 CFR Subpart 3009.1). The DHS rule implements section 835 of the Homeland Security Act of 2002 (P.L. 107-296, 6 U.S.C. 395).

DATES: *Effective Date:* July 1, 2009.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before August 31, 2009 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2008-009, by any of the following methods:

• Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2008-009" under the heading "Comment or Submission". Select the link "Send a Comment or Submission" that corresponds with FAR Case 2008-009. Follow the instructions provided to complete the "Public Comment and Submission Form". Please include your name, company name (if any), and "FAR Case 2008-009" on your attached document.

• Fax: 202-501-4067.

• Mail: General Services

Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005-34, FAR case 2008-009, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Procurement Analyst, at (202) 208-6925 for clarification of content. Please cite FAC 2005-34, FAR case 2008-009. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements section 743 of Division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8). Although this is effective for Fiscal Year 2009 funds, the Councils

have included the clause requirement when using Fiscal Year 2006, 2007, and 2008 funds, when similar prohibitions were included in appropriations acts.

Section 743 of Division D of this Act prohibits the use of Federal appropriated funds for Fiscal Year 2009 to contract with any inverted domestic corporation, as defined at section 835(b) of the Homeland Security Act of 2002 (Pub. L. 107–296, 6 U.S.C. 395(b)) or any subsidiary of such an entity.

What is an inverted domestic corporation. An inverted domestic corporation is one that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country. The reason a corporation would do this is to avoid United States taxes on business income generated in foreign countries. Bermuda, Barbados, and the Cayman Islands are well known tax havens; the statute is not restricted to these countries however. A term in wide use for these corporations is “corporate expatriate”. Congress has enacted both contract statutes and tax statutes to try to discourage corporations from expatriating themselves.

Tax statute. Congress enacted 26 U.S.C. 7874 to remove the tax benefits from the most egregious of these transactions, where at least 80 percent (80%) of the stock is now held by former shareholders or partners and where the foreign entity plus companies connected to it by 50 percent (50%) or more ownership do not have substantial business activities in the foreign country. The tax consequence is that the parent foreign corporation must then file a United States income tax return as a domestic corporation, not a foreign corporation.

Contracting and appropriations statutes. The contracting statutes are similar to the tax statute, but not identical. Congress, in 6 U.S.C. 395, restricted the Department of Homeland Security (DHS) from awarding contracts to inverted domestic corporations, either parent or subsidiary. Congress further restricted all executive branch agencies in Public Law 111–8, from using Fiscal Year 2009 monies “for any Federal Government contract with any...inverted domestic corporation...”. This statute borrowed the definition of inverted domestic corporation from the DHS statute, which in turn is related to the tax statute. The FAR is implementing Public Law 111–8 by further reliance on the tax statute and Internal Revenue Service regulations, as the Councils do not believe that

Congress intended to set up two different statutory schemes for handling inverted domestic corporations. A foreign corporation that has to file a tax return as a domestic corporation is automatically going to be an inverted domestic corporation for contracting purposes as well. The Councils note that there is an important difference between the tax statute and the other statutory definitions: the tax statute only applies to incorporations completed after March 4, 2003. An incorporation that took place on or before March 4, 2003, will not escape the contracting and fiscal ban.

Statutory definition of inverted domestic corporation. Section 835(b) defines an inverted domestic corporation to mean a foreign incorporated entity that, pursuant to a plan (or a series of related transactions) (1) directly or indirectly acquires substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership; (2) acquires at least eighty percent (80%) of the stock (by vote or value) of the entity held (a) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or (b) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and (3) after the acquisition, the expanded affiliated group that includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Which contractors are inverted domestic corporations. The Councils do not have this information. The Councils and Government contracting officers by law do not have access to tax return information. We cannot determine whether a contractor’s status and history mean it falls under the statutory requirements. Each contractor will have to analyze its own history and current status. This should be very easy to determine for sole proprietorships, partnerships, and domestic corporations without a foreign parent, as none of these could be inverted domestic corporations. It will also be easy for a foreign corporation which filed last year’s income tax return as a domestic corporation and its subsidiaries, which automatically fall under the contracting ban. The harder case will be for foreign

corporations that were domestic corporations or partnerships before 2004, and their subsidiaries. A list of high profile inversions occurring before February 2002 can be found in an article (Mihir A. Desai and James R. Hines, Jr., “Expectations and Expatriations: Tracing the Causes and Consequences of Corporate Inversions,” 55 National Tax Journal 409, 418–20 (2002)): Triton Energy, Tyco, Fruit of the Loom, Transocean, Everest Reinsurance, Foster Wheeler, Cooper Industries, Global Marine, Ingersoll Rand, Nabors Industries, and Noble Drilling. The Councils do not know whether these corporations would fall under the contracting ban (because of the 80 percent (80%) rule and the substantial-business test).

Funds covered. Section 743 of Public Law 111–8 contains the words “None of the funds appropriated or otherwise made available by this or any other Act may be used for any Federal Government contract...”. The Government Accountability Office (GAO) has stated that “The words ‘or any other Act’ in a provision addressing funds appropriated in or made available by ‘this or any other act’ are not words of futurity. They merely refer to any other appropriations act for the same fiscal year.” Volume One of the GAO Red Book at page 2–36. This means Section 743 does not apply to future fiscal years, unless Congress extends it in future legislation. However, it does apply to all Fiscal Year 2009 monies, whether the agency appropriations are directly covered by Public Law 111–8 or by a different 2009 appropriations act.

FAR coverage. The Councils are considering the prohibition as a prohibited business practice and have chosen to place coverage in the FAR Subpart entitled Responsible Prospective Contractors, 9.1. In addition to the definition of inverted domestic corporation and the prohibition on contracting with one, newly added FAR section 9.108 includes the limited Secretarial waiver authority granted by the statute and a representation requirement to be included in solicitations for goods and services.

The new solicitation provision at 52.209–2, Prohibition on Contracting with Inverted Domestic Corporations—Representation, provides the relevant definition and the condition that, by submission of its offer, the offeror represents that it is not an inverted domestic corporation or a subsidiary of an inverted domestic corporation. If the offeror cannot affirmatively make the representation, then it is not allowed to submit an offer absent a Secretarial waiver that contracting with the

inverted domestic corporation or its subsidiary is in the interest of national security.

Contracting officers should rigorously examine circumstances known to them that would lead a reasonable business person to question the contractor self-certification, as the appropriation restriction applies to accountable Government officers, and if willfully and knowingly violated, may result in criminal penalties.

The Act does not require flow down of the representation provision. Section 743 addresses only contracts entered into by Executive agencies. However, the Councils are taking public comments on this issue.

Applicability to commercial item contracts. Section 8003 of Public Law 103-355 (41 U.S.C. 430) is intended to limit the applicability of procurement laws to commercial items. Section 430 only permits exemption from a covered law, which is "any provision of law that...sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government." Also, exemption under section 430 is not permitted if the provision of law contains criminal or civil penalties. In any event, the law may be applied if the Federal Acquisition Regulatory Council makes a written determination that it is not in the best interest of the Federal Government to exempt commercial item contracts from the covered law.

Therefore, given that Section 743 of Division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8) prohibits the use of funds for any Federal Government contract with an inverted domestic corporation or to any subsidiary of one, the FAR Council has determined that the rule applies to contracts for commercial items.

Applicability to Commercially Available Off-The-Shelf (COTS) item contracts. Section 4203 of Public Law 104-106, the Clinger-Cohen Act of 1996 (41 U.S.C. 431), governs the applicability of laws to the procurement of commercially available off-the-shelf (COTS) items, and is intended to limit the applicability of laws to them. Clinger-Cohen provides that if a provision of law contains criminal or civil penalties, or if the Administrator for Federal Procurement Policy makes a written determination that it is not in the best interest of the Federal Government to exempt COTS item contracts, the provision of law will apply. The same applies for subcontracts for COTS items.

Therefore, given the requirements of Section 743 of Division D of the Omnibus Appropriations Act of 2009

(Public Law 111-8) which prohibits the use of funds for any Federal Government contract with an inverted domestic corporation or to any subsidiary of one, and the intent of the law, the Administrator of the Office of the Federal Procurement Policy, has determined that it is in the best interest of the Federal Government to apply this law to Commercially Available Off-The-Shelf (COTS) item contracts and subcontracts, as defined at FAR 2.101.

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule will only impact an offeror that is an inverted domestic corporation and wants to do business with the Government. It is expected that the number of entities impacted by this rule will be minimal. Small business concerns are unlikely to have been incorporated in the U.S. and then reincorporated in a tax haven; the major players in these transactions are reportedly the very large multinational corporations.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts 4, 9, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2005-34, FAR case 2008-009), in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because it

implements section 743 of Division D of Public Law 111-8, which is currently in effect. However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 4, 9, and 52

Government procurement.

Dated: June 25, 2009.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 9, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 9, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

■ 2. Amend section 4.1202 by redesignating paragraphs (f) through (cc) as (g) through (dd) respectively, and adding a new paragraph (f) to read as follows:

4.1202 Solicitation provision and contract clause.

* * * * *

(f) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

■ 3. Amend section 9.104-1 by revising paragraph (g) to read as follows:

9.104-1 General standards.

* * * * *

(g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations (see also inverted domestic corporation prohibition at FAR 9.108).

■ 4. Add sections 9.108 through 9.108-5 to read as follows:

9.108 Prohibition on contracting with inverted domestic corporations.

9.108-1 Definition.

Inverted domestic corporation, as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that

meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

9.108-2 Relationship with the Internal Revenue Code and Treasury regulations.

(a) Inverted domestic corporations are covered not only in the Department of Homeland Security statute at 6 U.S.C. 395, but also are similarly covered in the Internal Revenue Code at 26 U.S.C. 7874. A foreign corporation is treated as an inverted domestic corporation for U.S. Federal income tax purposes, rather than as a foreign corporation, if—

- (1) At least 80 percent (80%) of the stock is now held by former shareholders of the domestic corporation or partners of the domestic partnership; and
- (2) The foreign entity plus companies connected to it by 50 percent (50%) or more ownership do not have substantial business activities in the foreign country.

(b) A foreign corporation that is treated as an inverted domestic corporation for U.S. Federal income tax purposes, is also treated as one for purposes of this section.

(c) A foreign entity that escapes the tax consequence of 26 U.S.C. 7874 only because the inversion transactions were completed on or before the March 4, 2003, date in section 7874, is nevertheless treated as an inverted domestic corporation for purposes of 6 U.S.C. 395 (which does not have a limiting date) and therefore also for purposes of this section.

9.108-3 Prohibition.

(a) Section 743 of Division D of the FY 2009 Omnibus Appropriations Act (Public Law 111-8) prohibits the use of 2009 appropriated funds for contracting with any foreign incorporated entity that is treated as an inverted domestic corporation, or with a subsidiary of such a corporation. The same restriction was also contained in the Fiscal Year 2006 through 2008 appropriations acts. In order to be eligible for contract award when using Fiscal Year 2006 through Fiscal Year 2009 funds, an offeror must represent that it is not an inverted domestic corporation or subsidiary. Any offeror that cannot so represent is ineligible for award of a contract using such appropriated funds.

(b) Contracting officers should rigorously examine circumstances known to them that would lead a reasonable business person to question the contractor self-certification and, after consultation with legal counsel, take appropriate action where that questionable self-certification cannot be verified.

9.108-4 Waiver.

Any agency head may waive the requirement of subsection 9.108-3 for a specific contract if the agency head determines in writing that the waiver is required in the interest of national security, documents the determination, and reports it to the Congress.

9.108-5 Solicitation provision.

When using funds appropriated in Fiscal Year 2006 through Fiscal Year 2009, the contracting officer shall include the provision at 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation, in each solicitation issued after July 1, 2009 for the acquisition of products or services (see FAR 52.212-3 for solicitations issued under Part 12), unless waived in accordance with FAR 9.108-4.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add section 52.209-2 to read as follows:

52.209-2 Prohibition on Contracting with Inverted Domestic Corporations—Representation.

As prescribed in 9.108-5, insert the following provision:

PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS—REPRESENTATION (JUL 2009)

(a) *Definition. Inverted domestic corporation* means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

(b) *Relation to Internal Revenue Code.* A foreign entity that is treated as an inverted domestic corporation for purposes of the Internal Revenue Code at 26 U.S.C. 7874 (or would be except that the inversion transactions were completed on or before March 4, 2003), is also an inverted domestic corporation for purposes of 6 U.S.C. 395 and for this solicitation provision (see FAR 9.108).

(c) *Representation.* By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

(End of provision)

- 6. Amend section 52.212-3 by—
- a. Revising the date of the provision;
- b. In paragraph (a), adding, in alphabetical order, the definition “Inverted domestic corporation”;

■ c. Removing from paragraph (b)(2) “(c) through (m)” and adding “(c) through (n)” in its place;

■ d. Adding paragraph (n).

The revised and added text reads as follows:

52.212-3 Offeror Representations and Certifications—Commercial Items.

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (JUL 2009)

* * * * *

(a) * * *

* * * * *

Inverted domestic corporation means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

* * * * *

(n) Prohibition on Contracting with Inverted Domestic Corporations. (1) *Relation to Internal Revenue Code.* A foreign entity that is treated as an inverted domestic corporation for purposes of the Internal Revenue Code at 26 U.S.C. 7874 (or would be except that the inversion transactions were completed on or before March 4, 2003), is also an inverted domestic corporation for purposes of 6 U.S.C. 395 and for this solicitation provision (see FAR 9.108).

(2) *Representation.* By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

* * * * *

[FR Doc. E9-15434 Filed 6-30-09; 8:45 am]

BILLING CODE 6820-EP-S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 9

[FAC 2005-34; FAR Case 2008-028; Item III; Docket 2009-0021; Sequence 1]

RIN 9000-AL33

Federal Acquisition Regulation; FAR Case 2008-028, Role of Interagency Committee on Debarment and Suspension

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Section 873(a)(1) and (2) of the National Defense Authorization Act for Fiscal Year 2009. Section 873(a)(1) and (2) clarifies the role of the Interagency Committee on Debarment and Suspension when more than one agency has an interest in the debarment or suspension of a contractor.

DATES: *Effective Date:* July 31, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Edward Loeb, Director, at (202) 501-0650. The TTY Federal Relay Number for further information is 1-800-877-8973. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-34, FAR case 2008-028.

SUPPLEMENTARY INFORMATION:

A. Background

This case amends FAR 9.402 to implement Section 873(a)(1) and (2) of the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417), which was enacted on October 14, 2008. Section 873 of the Act defines the role of the Interagency Committee on Debarment and Suspension. Among other responsibilities, the Interagency Committee on Debarment and Suspension is authorized to resolve issues regarding the agency that will have lead responsibility in initiating a suspension or debarment proceeding. The Committee will also coordinate actions among interested agencies with respect to such action.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Part 9 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2005-34, FAR case 2008-028), in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Part 9

Government procurement.

Dated: June 25, 2009.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 9 as set forth below:

PART 9—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for 48 CFR part 9 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 9.402 by revising paragraph (c), redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d) to read as follows:

9.402 Policy.

* * * * *

(c) Agencies are encouraged to establish methods and procedures for coordinating their debarment or suspension actions.

(d) When more than one agency has an interest in the debarment or suspension of a contractor, the Interagency Committee on Debarment and Suspension, established under Executive Order 12549, and authorized by Section 873 of the National Defense

Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), shall resolve the lead agency issue and coordinate such resolution among all interested agencies prior to the initiation of any suspension, debarment, or related administrative action by any agency.

* * * * *

[FR Doc. E9-15431 Filed 6-30-09; 8:45 am]

BILLING CODE 6820-EP-S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2009-0002, Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-32; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005-34 which amend the FAR. Interested parties may obtain further information regarding these rules by referring to FAC 2005-34 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, FAR Secretariat, (202) 208-7282. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2005-34

Item	Subject	FAR case	Analyst
I	Contractor Performance Information	2006-022	Parnell.
II	Prohibition on Contracting with Inverted Domestic Corporations (Interim)	2008-009	Murphy.
III	Role of Interagency Committee on Debarment and Suspension	2008-028	Loeb.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005-34 amends the FAR as specified below:

Item I—Contractor Performance Information (FAR Case 2006-022)

This final rule amends the FAR to revise the contractor performance information process. The FAR revisions include changes to FAR Parts 2, 8, 9, 13, 17, 36, 42, and 53. The purpose of this final rule is to ensure that the FAR clearly reflects the use of the Governmentwide performance information repository, Past Performance Information Retrieval System (PPIRS) at <http://www.ppirs.gov>; requires the evaluation of past performance for orders exceeding the simplified acquisition threshold placed against Federal Supply Schedule contracts, or under a task order or delivery order against a contract

awarded by another Federal agency (*i.e.* Governmentwide acquisition contract or multi-agency contract); recommends past performance information for orders under single agency contracts; consolidates the collection of past performance guidance in Part 42; and, clarifies that the Agency shall identify those responsible for preparing interim and final evaluations.

Item II—Prohibition on Contracting with Inverted Domestic Corporations (FAR Case 2008-009) (Interim)

This interim rule implements Section 743 of Division D of the Omnibus Appropriations Act, 2009 (Public Law 111-8), which prohibits the award of contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of one. The interim rule addresses solicitations issued after the date of publication using funds appropriated in Fiscal Years 2006, 2007, and 2008, as well.

Item III—Role of Interagency Committee on Debarment and Suspension (FAR Case 2008-028)

This final rule amends Federal Acquisition Regulation Subpart 9.4 to clarify the role of the Interagency Committee on Debarment and Suspension when more than one agency has an interest in the debarment or suspension of a contractor. Among other responsibilities, the Interagency Committee on Debarment and Suspension is authorized to resolve issues regarding the agency that will have lead responsibility in initiating a suspension or debarment proceeding. The Committee will also coordinate actions among interested agencies with respect to such action. This rule implements the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Section 873(a)(1) and (2).

Dated: June 25, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9-15430 Filed 6-30-09; 8:45 am]

BILLING CODE 6820-EP-S

Reader Aids

Federal Register

Vol. 74, No. 125

Wednesday, July 1, 2009

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal RegulationsGeneral Information, indexes and other finding aids **202-741-6000****Laws** **741-6000****Presidential Documents**Executive orders and proclamations **741-6000****The United States Government Manual** **741-6000****Other Services**Electronic and on-line services (voice) **741-6020**Privacy Act Compilation **741-6064**Public Laws Update Service (numbers, dates, etc.) **741-6043**TTY for the deaf-and-hard-of-hearing **741-6086**

ELECTRONIC RESEARCH

World Wide WebFull text of the daily Federal Register, CFR and other publications is located at: <http://www.gpoaccess.gov/nara/index.html>Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: http://www.archives.gov/federal_register**E-mail****FEDREGTOC-L** (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.**FEDREGTOC-L** and **PENS** are mailing lists only. We cannot respond to specific inquiries.**Reference questions.** Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at <http://www.regulations.gov>.**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

FEDERAL REGISTER PAGES AND DATE, JULY

31345-31566..... 1

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

H.R. 2346/P.L. 111-32
Supplemental Appropriations Act, 2009 (June 24, 2009; 123 Stat. 1859)

Last List June 24, 2009

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly

enacted public laws. To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html>

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2009

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 1	Jul 16	Jul 22	Jul 31	Aug 5	Aug 17	Aug 31	Sep 29
July 2	Jul 17	Jul 23	Aug 3	Aug 6	Aug 17	Aug 31	Sep 30
July 6	Jul 21	Jul 27	Aug 5	Aug 10	Aug 20	Sep 4	Oct 5
July 7	Jul 22	Jul 28	Aug 6	Aug 11	Aug 21	Sep 8	Oct 5
July 8	Jul 23	Jul 29	Aug 7	Aug 12	Aug 24	Sep 8	Oct 6
July 9	Jul 24	Jul 30	Aug 10	Aug 13	Aug 24	Sep 8	Oct 7
July 10	Jul 27	Jul 31	Aug 10	Aug 14	Aug 24	Sep 8	Oct 8
July 13	Jul 28	Aug 3	Aug 12	Aug 17	Aug 27	Sep 11	Oct 13
July 14	Jul 29	Aug 4	Aug 13	Aug 18	Aug 28	Sep 14	Oct 13
July 15	Jul 30	Aug 5	Aug 14	Aug 19	Aug 31	Sep 14	Oct 13
July 16	Jul 31	Aug 6	Aug 17	Aug 20	Aug 31	Sep 14	Oct 14
July 17	Aug 3	Aug 7	Aug 17	Aug 21	Aug 31	Sep 15	Oct 15
July 20	Aug 4	Aug 10	Aug 19	Aug 24	Sep 3	Sep 18	Oct 19
July 21	Aug 5	Aug 11	Aug 20	Aug 25	Sep 4	Sep 21	Oct 19
July 22	Aug 6	Aug 12	Aug 21	Aug 26	Sep 8	Sep 21	Oct 20
July 23	Aug 7	Aug 13	Aug 24	Aug 27	Sep 8	Sep 21	Oct 21
July 24	Aug 10	Aug 14	Aug 24	Aug 28	Sep 8	Sep 22	Oct 22
July 27	Aug 11	Aug 17	Aug 26	Aug 31	Sep 10	Sep 25	Oct 26
July 28	Aug 12	Aug 18	Aug 27	Sep 1	Sep 11	Sep 28	Oct 26
July 29	Aug 13	Aug 19	Aug 28	Sep 2	Sep 14	Sep 28	Oct 27
July 30	Aug 14	Aug 20	Aug 31	Sep 3	Sep 14	Sep 28	Oct 28
July 31	Aug 17	Aug 21	Aug 31	Sep 4	Sep 14	Sep 29	Oct 29