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WHEN: Tuesday, September 15, 2009
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RESERVATIONS: (202) 741–6008

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# Rules and Regulations

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

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## DEPARTMENT OF HOMELAND SECURITY

**2 CFR Part 3000**

**44 CFR Part 17**

**[Docket No. DHS–2007–0006]**

**RIN 1601–AA46**

## Department of Homeland Security Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

**AGENCY:** Department of Homeland Security (DHS).

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Department of Homeland Security (DHS) is issuing this interim final rule to establish a new part 3000 on nonprocurement debarment and suspension in Title 2 of the Code of Federal Regulations (CFR). This new part is the Department's implementation of the Office of Management and Budget's (OMB) guidance on nonprocurement debarment and suspension. This rulemaking is consistent with OMB's initiative to streamline and consolidate Federal regulations, and brings all DHS components under a DHS-wide nonprocurement debarment and suspension system.

**DATES:** This interim final rule is effective August 17, 2009. Comments and related material must be received on or before August 17, 2009.

**ADDRESSES:** You may submit comments, identified by the docket number to this rulemaking, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Van Pace, Department of Homeland Security, 245 Murray Lane, SW., Bldg. 410—Room 3514–11, Washington, DC 20528–0001.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Van Pace, Office of Grant Policy and Oversight, Department of Homeland Security, at (202) 447–5269.

**SUPPLEMENTARY INFORMATION:**

### I. Public Participation and Request for Comments

The Department of Homeland Security (DHS) encourages interested persons 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.

*A. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (DHS–2007–0006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. 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. You may submit your comments and material by electronic means or mail at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. We will consider all comments and material received during the comment period. We may change this rule in view of them.

*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* at any time. Enter the docket number for this rulemaking (DHS–2007–0006) in the Search box, and click ''Go >>.'' Individuals without Internet access can make alternate arrangements for viewing comments and documents related to this rulemaking by contacting DHS at the **FOR FURTHER INFORMATION CONTACT** information above.

*C. Public Meeting*

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

### II. Interim Final Rule

DHS is issuing this interim 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), DHS finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule.

As described below in the Background and Purpose section, the Office of Management and Budget (OMB) has already conducted an extensive notice and comment process in the development of Federal Governmentwide final guidance on nonprocurement debarment and suspension, which DHS adopts without substantive change in this rulemaking. To conduct an additional notice and comment process would be unnecessary, redundant, wasteful of Federal resources, and cause needless delay of the regulatory streamlining initiative of which this rulemaking is a part.

### III. Background and Purpose

Executive Order 12549, entitled *Debarment and Suspension,* which was signed on February 18, 1986 (3 CFR, 1986 Comp., p. 189, 51 FR 6370), provided that debarment or suspension of a participant in a program or activity involving Federal financial and nonfinancial assistance and benefits by one agency shall have Governmentwide effect. Executive Order 12549, section 1(a). The Executive Order did not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement,

or Federal employment. Executive Order 12549, section 1(c). Section 6 of the Executive Order authorized OMB to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by the Executive Order, prescribe Governmentwide criteria and Governmentwide minimum due process procedures, and set forth other related details for the effective administration of the guidelines. Section 3 directed agencies to issue implementing regulations that are consistent with OMB guidelines.

On February 21, 1986, OMB published proposed guidelines regarding the subjects in section 6 of Executive Order 12549 (51 FR 6370). The guidelines included draft regulations as a model to facilitate their use by the executive agencies when issuing the regulations required under section 3 of Executive Order 12549.

After considering 60 comments, OMB issued guidelines pursuant to Executive Order 12549, section 6, on May 29, 1987 (52 FR 20360). On May 26, 1988, 28 Federal agencies chose to comply with section 3 of the Executive Order by finalizing a common rule, and OMB revised its guidance to conform to the agencies' common rule. *See* 53 FR 19161. OMB has subsequently revised its guidance several times to conform it to Federal agencies' updates of the common rule.

On May 11, 2004, OMB established Title 2 of the CFR for grants and other financial assistance and nonprocurement agreements (69 FR 26276). Title 2 consists of two subtitles: Subtitle A, entitled *Governmentwide Guidance for Grants and Agreements,* contains OMB policy guidance to Federal agencies on grants and agreements; and Subtitle B, entitled *Federal Agency Regulations for Grants and Agreements,* contains Federal agencies' regulations implementing the OMB guidance in subtitle A.

Subtitle B of title 2 contains agency regulatory language that adopts the guidance and removes the common rule from its own title of the CFR (69 FR 26277). Thus, the full text of the Governmentwide policies will appear only once, in the OMB guidelines, and each agency's regulations will adopt those guidance documents identifying any agency-specific additions, exceptions or clarifications without repeating the full text. (69 FR 26277).

On August 31, 2005, OMB published policy guidance in 2 CFR subtitle A for Governmentwide nonprocurement debarment and suspension (70 FR 51862) to conform to the revised common rule adopted by 33 Federal agencies on November 26, 2003 (68 FR 66534). For the first time, OMB also published the guidance in 2 CFR part 180 ''in a form suitable for agency adoption,'' and explained that previous guidance ''was not published anywhere [other than in the **Federal Register**], in full text * * *.'' (70 FR 51864). As part of this new approach, OMB required each Federal agency to:

> (1) Establish its chapter in Subtitle B of 2 CFR, consistent with the structure established for that title; (2) issue in that chapter of 2 CFR its brief rule adopting the OMB guidance and stating any additions, clarifications, or exceptions to the policies and procedures contained in the guidance; and (3) remove the November 2003 common rule from its own CFR title.

(70 FR 51865). On November 15, 2006, OMB published a final rule, revising its Governmentwide guidance with changes suggested by the Interagency Suspension and Debarment Committee (71 FR 66431).

## IV. Discussion

In accordance with OMB's direction in the August 31, 2005 guidance (70 FR 51865), DHS is issuing this rule to adopt and implement the final guidance in 2 CFR part 180. This regulatory action implements OMB's initiative to streamline and consolidate all Federal regulations on nonprocurement debarment and suspension into one part of the CFR. It also provides a common rule applicable to all DHS components.

Pursuant to the same OMB direction, DHS is also removing subparts A, B, C, D, and E, and appendices A and B of 44 CFR part 17, which contains the Federal Emergency Management Agency's (FEMA) nonprocurement debarment and suspension rules. FEMA is the only DHS component with pre-existing agency-specific nonprocurement debarment and suspension rules. Under the provisions of this interim final rule, all of DHS will use DHS' nonprocurement debarment and suspension rules, thereby making those currently in 44 CFR part 17 obsolete.

The current FEMA nonprocurement debarment and suspension regulations in 44 CFR part 17 are essentially the same as the amended common rule adopted by 35 Federal agencies on June 26, 1995, and the conforming OMB guidance that issued on the same day (60 FR 33037). DHS is also making minor changes to the remainder of 44 CFR part 17 to remove or correct obsolete references and to remove the subpart F title *Drug-Free Workplace Requirements (Grants),* and redesignate Appendix C as ''Appendix''.

Since 1995, federal agencies updated the common rule on November 26, 2003 (68 FR 66534), OMB conformed the interim final guidance to that updated common rule on August 31, 2005 (70 FR 51863), and, on November 15, 2006, OMB issued a final rule that incorporated ''technical corrections suggested by the Interagency Suspension and Debarment committee (71 FR 66431). A description of the differences between the current FEMA regulations and this interim final rule is available in those changes to the 1995 common rule and guidance.

## V. Regulatory Analyses

### *A. 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. It has not been reviewed by OMB under that Order.

### *B. 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 does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt from these requirements, we have reviewed it for potential economic impact on small entities.

DHS does not believe that this rule will 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 rule will have a significant economic impact on it, please submit a comment to the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this 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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule

would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Van Pace, Office of Grant Policy and Oversight, Department of Homeland Security at (202) 447–5269. DHS will not retaliate against small entities that question or complain about this rule or any policy or action of DHS.

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 DHS employees, call 1–888–REG–FAIR (1–888–734–3247).

*D. 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).

*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 rule under that Executive 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. 1531–1536) 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.

*G. 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.

*H. 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.

*I. 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.

*J. 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.

*K. 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.

*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 OMB, 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.

*M. Environment*

This rulemaking concerns nonprocurement debarment and suspension administrative procedures, and implements OMB's regulatory requirements in this area without substantive change. We have analyzed this interim final rule under Department of Homeland Security Management Directive 023–01 which guides DHS in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4365), and have concluded that this rule is part of a category of actions described in item A3 of Table 1 in Appendix A of the Management Directive. This interim final rule would not individually or cumulatively have a significant effect on the human environment and, therefore, neither an environmental assessment nor an environmental impact statement is necessary.

**List of Subjects**

*2 CFR Part 3000*

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

*44 CFR Part 17*

Administrative practice and procedure, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, DHS amends Title 2 of the CFR and 44 CFR part 17 as follows:

**Title 2—Grants and Agreements**

■ 1. In subtitle B, add Chapter XXX, consisting of Part 3000, to read as follows:

**Chapter XXX—Department of Homeland Security**

## PART 3000—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.
3000.10 What does this part do?
3000.20 Does this part apply to me?
3000.30 What policies and procedures must I follow?

**Subpart A—General**

3000.137 Who in the Department of Homeland Security may grant an exception to let an excluded person participate in a covered transaction?

**Subpart B—Covered Transactions**

3000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

**Subpart C—Responsibilities of Participants Regarding Transactions**

3000.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

**Subpart D—Responsibilities of Department of Homeland Security Officials Regarding Transactions**

3000.437 What method do I use to communicate to a participant the requirements described in the Office of Management and Budget guidance at 2 CFR 180.435?

**Subpart E–I [Reserved]**

**Authority:** Sec. 2455, Public Law 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; Public Law 107–296, 116 Stat. 2135.

### § 3000.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Homeland Security policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the Department of Homeland Security to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, ''Debarment and Suspension'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Debarment and Suspension'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

### § 3000.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a ''covered transaction'' (see Subpart B of 2 CFR Part 180 and the definition of ''nonprocurement transaction'' at 2 CFR 180.970);

(b) Respondent in a Department of Homeland Security suspension or debarment action;

(c) Department of Homeland Security debarment or suspension official;

(d) Department of Homeland Security grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

### § 3000.30 What policies and procedures must I follow?

The Department of Homeland Security policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR Part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.,* 2 CFR 180.220) as supplemented by section 220 in this part (*i.e.,* § 3000.220). For any section of OMB guidance in Subparts A through I of 2 CFR Part 180 that has no corresponding section in this part, Department of Homeland Security policies and procedures are those in the OMB guidance.

## Subpart A—General

### § 3000.137 Who in the Department of Homeland Security may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Homeland Security, the Secretary of Homeland Security has delegated the authority to grant an exception to let an excluded person participate in a covered transaction to the Head of the Contracting Activity for each DHS component as provided in the OMB guidance at 2 CFR 180.135.

## Subpart B—Covered Transactions

### § 3000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Department of Homeland Security extends coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

## Subpart C—Responsibilities of Participants Regarding Transactions

### § 3000.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant in a covered transaction must include a term or condition in any lower-tier covered transaction into which you enter, to require the participant of that transaction to—

(a) Comply with Subpart C of the OMB guidance in 2 CFR part 180; and

(b) Include a similar term or condition in any covered transaction into which it enters at the next lower tier.

## Subpart D—Responsibilities of Department of Homeland Security Officials Regarding Transactions

### § 3000.437 What method do I use to communicate to a participant the requirements described in the Office of Management and Budget guidance at 2 CFR 180.435?

You as a DHS component official must include a term or condition in each covered transaction into which you enter, to communicate to the participant the requirements to—

(a) Comply with subpart C of the OMB guidance in 2 CFR part 180; and

(b) Include a similar term or condition in any lower-tier covered transactions into which the participant enters.

## Subparts E–I [Reserved]

## Title 44—Emergency Management and Assistance

## PART 17—GOVERNMENTWIDE REQUIREMENTS FOR DRUG–FREE WORKPLACE (GRANTS)

■ 2. The authority citation for part 17 is revised to read as follows:

**Authority:** 41 U.S.C. 701 *et seq.*

■ 3. Revise the heading to part 17 to read as set forth above.

## Subparts A–E [Removed]

■ 4. In part 17, remove subparts A through E, consisting of §§ 17.100 through 17.510.

### §§ 17.600 through 17.635 [Amended]

■ 5. In part 17, remove the designation and subpart heading for Subpart F (currently consisting of §§ 17.600 through 17.635).

■ 6. In § 17.605—

■ a. Remove paragraph (a) and remove the paragraph (b) introductory text designation and the designations for paragraphs (b)(1) through (10) and arrange definitions in alphabetical order; and

■ b. Add definitions, in alphabetical order, for ''Agency, '' ''Debarment,'' ''Person,'' and ''Suspension,'' and revise the definition of ''Employee'' to read as follows:

### § 17.605 Definitions.

* * * * *

*Agency* means any executive department, military department or defense agency or other agency of the executive branch, excluding the independent regulatory agencies.

* * * * *

*Debarment* means action taken by a debarring official in accordance with these regulations to exclude a person from participating in covered transactions. A person so excluded is ''debarred.''

* * * * *

*Employee* means

(1) The employee of a grantee directly engaged in the performance of work under the grant, including:

(i) All ''direct charge'' employees;

(ii) All ''indirect charge'' employees, unless their impact or involvement is

insignificant to the performance of the grant; and,

(iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll.

(2) This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the payroll; or employees of subrecipients or subcontractors in covered workplaces);

* * * * *

*Person* means any individual, corporation, partnership, association, unit of government or legal entity, however organized, except: foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities.

* * * * *

*Suspension* means an action taken by a suspending official in accordance with these regulations that immediately excludes a person from participating in covered transactions for a temporary period, pending completion of an investigation and such legal, debarment, or Program Fraud Civil Remedies Act proceedings as may ensue. A person so excluded is ''suspended.''

**§ 17.610 [Amended]**

■ 7. In § 17.610(c), remove the words ''subparts A, B, C, D and E of this part'', and add in their place the words ''2 CFR part 3000''; and remove the words ''this part'', and add in their place the words ''2 CFR part 3000''.

**§ 17.615 [Amended]**

■ 8. In § 17.615—

■ a. In paragraph (b)(1), remove the words ''appendix C'' and add, in their place, the word ''appendix to part 17''.

■ b. In paragraph (c)(1), remove the words ''appendix C'' and add, in their place, the word ''appendix to part 17''.

**§ 17.620 [Amended]**

■ 9. In § 17.620—

■ a. In paragraph (a)(3), remove the words ''this part'', and add in their place the words ''2 CFR part 3000''.

■ b. In paragraph (b), remove the words ''this part'', and add in their place the words ''2 CFR part 3000''; and remove the words ''17.320(a)(2) of this part'', and add in their place the words ''2 CFR part 3000''.

**§ 17.630 [Amended]**

■ 10. In § 17.630(a)(1), remove the words ''appendix C'' and add, in their place, the word ''appendix to part 17''.

**Appendix A to Part 17 [Removed]**

■ 11. In part 17, remove Appendix A.

**Appendix B to Part 17 [Removed]**

■ 12. In part 17, remove Appendix B.

**Appendix C to Part 17 [Redesignated as Appendix to Part 17]**

■ 13. In part 17, redesignate Appendix C as Appendix to Part 17.

**Van Pace,**

*Director, Office of Grant Policy & Oversight, Department of Homeland Security.*

[FR Doc. E9–16429 Filed 7–15–09; 8:45 am]

BILLING CODE 9110–9B–P

## DEPARTMENT OF THE TREASURY

## Office of the Comptroller of the Currency

## 12 CFR Part 3

**[Docket ID OCC–2009–0007]**

**RIN 1557–AD25**

## Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital—Residential Mortgage Loans Modified Pursuant to the Making Home Affordable Program; Correcting Amendment

**AGENCY:** Office of the Comptroller of the Currency, Department of the Treasury.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This final rule reinstates regulatory text that was inadvertently removed during the issuance of an interim final rule.

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

**FOR FURTHER INFORMATION CONTACT:** Carl Kaminski, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** On June 30, 2009, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Office of Thrift Supervision issued an interim final rule providing that mortgage loans modified under the Making Home Affordable Program (Program) will retain the risk weight assigned to the loan prior to the modification, so long as the loan continues to meet other applicable prudential criteria.[1] Due to a drafting error, a portion of the OCC's existing capital rule was inadvertently removed. This rule reinstates this text.

### Regulatory Analysis

*Administrative Procedure Act*

Pursuant to sections 553(b) and (d) of the Administrative Procedure Act,[2] the OCC finds that there is good cause for issuing this final rule and making the rule effective immediately upon publication, and that it is impracticable, unnecessary, or contrary to the public interest to issue a notice of proposed rulemaking and provide an opportunity to comment before the effective date. The rule merely reinstates text that was unintentionally removed.

*Riegle Community Development and Regulatory Improvement Act*

Section 302 of Riegle Community Development and Regulatory Improvement Act generally requires that regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions take effect on the first day of a calendar quarter unless the relevant agency finds good cause that the regulations should become effective sooner and publishes its finding with the rule.[3] This provision does not apply because this rule imposes no additional requirements.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). Pursuant to the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(B), general notice and an opportunity for public comment are not required prior to the issuance of a final rule when an agency, for good cause, finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''

As discussed above, the OCC has determined for good cause that the APA does not require general notice and public comment on this interim final rule and, therefore, we are not publishing a general notice of proposed rulemaking. Thus, the RFA, pursuant to 5 U.S.C. 601(2), does not apply to this interim final rule.

[1] 74 FR 31160 (June 30, 2009).

[2] 5 U.S.C. 553(b) and (d).

[3] 12 U.S.C. 4802(b)(1).

*Paperwork Reduction Act*

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), the agencies have reviewed the interim final rule to assess any information collections. There are no collections of information as defined by the Paperwork Reduction Act in the final rule.

*Executive Order 12866*

Executive Order 12866 requires federal agencies to prepare a regulatory impact analysis for agency actions that are found to be ''significant regulatory actions.'' Significant regulatory actions include, among other things, rulemakings that ''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.'' The OCC determined that the final rule is not a significant regulatory action under Executive Order 12866.

*Unfunded Mandates Reform Act of 1995 Determination*

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, (2 U.S.C. 1532) (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. 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 has determined that the final rule will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

**List of Subjects in 12 CFR Part 3**

Administrative practice and procedure, Banks, Banking, Capital, National banks, Reporting and recordkeeping requirements, Risk.

**Authority and Issuance**

■ For the reasons stated in the preamble, the Office of the Comptroller of the Currency amends Part 3 of chapter I of Title 12, Code of Federal Regulations as follows:

## PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

**Authority:** 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.

■ 2. In appendix A to Part 3, in section 3, add two sentences to the end of paragraph (a)(3)(iii) to read as follows:

### Appendix A to Part 3—Risk Based Capital Guidelines

* * * * *

*Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items*

* * * * *

(a) * * *

(3) * * *

(iii) * * * If a bank holds a first lien and junior lien on a one-to-four family residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purposes of both determining the loan-to-value ratio and assigning a risk weight to the transaction. Furthermore, residential property loans made for the purpose of construction financing are assigned to the 100% risk category of section 3(a)(4) of this appendix A; however, these loans may be included in the 50% risk category of this section 3(a)(3) of this appendix A if they are the subject to a legally binding sales contract and satisfy the requirements of section 3(a)(3)(iv) of this appendix A.

* * * * *

Dated: July 9, 2009.

By the Office of the Comptroller of the Currency.

**Julie L. Williams,**

*First Senior Deputy Comptroller and Chief Counsel.*

[FR Doc. E9–16882 Filed 7–15–09; 8:45 am]

BILLING CODE 4810–33–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900–AN20**

### Elimination of Requirement for Prior Signature Consent and Pre- and Post-Test Counseling for HIV Testing

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document adopts, without change, the proposed rule published in the **Federal Register** on December 29, 2008, updating informed consent requirements related to testing for the Human Immunodeficiency Virus (HIV) for Veterans receiving health care from the Department of Veterans Affairs (VA). This final rule is in accordance with related provisions of the Veteran's Mental Health and Other Care Improvements Act of 2008. The final rule eliminates the regulatory requirement for written informed consent for HIV testing and specific pre- and post-test counseling of Veteran patients. VA will implement this rule through internal policy guidance specifying these requirements and how they apply to HIV testing.

**DATES:** *Effective Date:* This final rule is effective August 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ronald O. Valdiserri, MD, MPH, Chief Consultant (13B), Public Health Strategic Healthcare Group, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–1040. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On December 29, 2008, VA published a proposed rule in the **Federal Register** (73 FR 79428). We proposed to amend 38 CFR 17.32(d), VA's regulation concerning documentation of informed consent, and 38 CFR 17.32(g), VA's regulation concerning special consent situations, by removing the requirement for written rather than oral informed consent for HIV testing and specific pre- and post-test counseling of Veteran patients related to HIV testing. However, nothing in this regulation changes existing statutory requirements for informed consent. These changes are in response to provisions included in section 124 of Public Law 100–322, the Veteran's Mental Health and Other Care Improvement Act of 2008. VA provided a 30-day comment period, which ended on January 28, 2009.

We received a number of comments that did not address the proposed amendments to § 17.32 and thus were outside the scope of this rulemaking proceeding. Although we appreciate those comments, we will not address them in this final rule.

We received comments concerning the proposed amendments from 10 organizations and 10 individuals. Sixteen commenters expressed support for the proposed rule. We received two comments opposing the rule, one of which was submitted jointly by four commenters, and will address each of those comments below.

VA proposed to amend the Informed Consent regulation for HIV testing in the medical regulations in 38 CFR part 17 to remove § 17.32(d)(1)(vi) and 17.32(g)(4). Section 124 of Public Law 100–322 (1988) (''section 124'') prohibited any VA program from widespread testing to identify HIV

infections unless Congress specifically appropriated funds for such a program. The statute further required VA to ''provide for a program'' under which VA offered HIV testing to: (1) Any patient receiving care or services for intravenous drug abuse, diseases associated with HIV, and any patient otherwise at high risk for HIV infection; and (2) any patient requesting the test, unless medically contraindicated. No testing of any patient was permissible under section 124 without the prior written informed consent of the patient and the provision of pre- and post-test counseling. The Administration sought the repeal of section 124 to enable VA to bring its informed consent policy and procedures for HIV testing into line with current standards of practice, to improve potential health outcomes of infected patients, and to advance the country's broader public health goals. Section 407 of Public Law 110–387 repealed section 124 and eliminated the statutory requirements that VA's HIV-testing policy include prior written consent and pre- and post-test counseling. To enable VA to bring its policy into conformance with the purpose of the legislation as well as with current medical practice, VA proposed to remove the provisions of 38 CFR 17.32(d)(1)(vi) and (g)(4).

One commenter opposed eliminating the requirements for pre-test counseling and signature consent because these requirements help guarantee veterans' rights to choose their medical care, to have their privacy respected, and to be treated with dignity. VA agrees that in all of its actions, the Department should promote respect for these rights. However, other provisions in current regulations, which are not amended by this final rule, address the commenter's concerns. Specifically, we will use oral informed consent, consistent with 38 CFR 17.32(b), which requires that all patient care furnished by VA, including HIV testing, ''shall be carried out only with the full and informed consent of the patient or, in appropriate cases, a representative thereof.'' Informed consent is ''the freely given consent that follows a careful explanation by the practitioner to the patient or the patient's surrogate of the proposed diagnostic or therapeutic procedure or course of treatment.'' 38 CFR 17.32(c). As part of the informed consent process in § 17.32(c), VA practitioners are required to ''explain in language understandable to the patient or surrogate the nature of a proposed procedure or treatment; the expected benefits; reasonably foreseeable associated risks, complications or side effects; reasonable and available alternatives; and anticipated results if nothing is done.'' Section 17.32(c) further requires that ''[t]he patient or surrogate must be given the opportunity to ask questions, to indicate comprehension of the information provided, and to grant permission freely without coercion,'' and that the patient or surrogate ''may withhold or revoke his or her consent at any time.'' These regulatory requirements are grounded in Veterans' right to choose their medical care, to have their privacy respected, and to be treated with dignity. Moreover, as noted in the Notice of Proposed Rulemaking (NPRM), the protections that we will continue to provide are still more rigorous than those generally found in the private sector.

Accordingly, we will not make any changes to the final rule based upon the comment.

Four commenters jointly opposed the proposed rule because they believed that requirements for pre- and post-test counseling and written informed consent are not meaningful barriers to promptly identifying people infected with HIV. These commenters cited several examples of organizations that have successfully increased their rates of HIV testing by streamlining their procedures for pre-test counseling and written informed consent.

Our primary purposes in eliminating these requirements are (1) to eliminate any unnecessary impediments to HIV testing, (2) to enable VA to make its informed consent and procedures for HIV testing consistent with our procedures for other routine clinical tests run by VA, and (3) to enable us to bring our procedures in line with current standards of practice as recommended by the Centers for Disease Control and Prevention while protecting the rights of patients in other health care systems. We carefully considered the alternatives available to VA, including the ''streamlining'' suggested by the commenters, but nonetheless concluded that there was insufficient reason to maintain the pre-test counseling and written informed consent requirements that have been shown to be associated with lower rates of HIV testing. By eliminating these requirements and replacing them with other less cumbersome procedures to ensure that patients are fully informed and have the opportunity to consent or refuse HIV testing, we believe we can increase testing rates while still protecting the rights and interests of our Veteran patients.

We note, briefly, that several studies support the proposition that eliminating pre-test counseling and prior written informed consent may lead to increased testing rates, especially when combined with improved testing procedures. *See,* NM Zetola *et al., Association between rates of HIV testing and elimination of written consents in San Francisco,* 297 JAMA 1061–2 (2007); PD Ehrenkranz et al., *Written Informed Consent Statutes and HIV Testing,* Am J Prev Med (May 2009) (Epub ahead of print); C. Wing, *Effects of written informed consent requirements on HIV testing rates: evidence from a natural experiment,* 99 Am J Pub Health 1087–92 (2009); RC Burke et al., *Why don't physicians test for HIV? A review of the US literature,* 21 AIDS 1617–24 (2007). This literature supports our decision that a program of prior informed oral consent, combined with better procedures, is the most efficient and effective method available at this time to achieve higher HIV testing rates, irrespective of whether other less or equally effective alternatives are available.

The commenters also argued that the current requirement for pre-test counseling should be retained because patients benefit from receiving the information VA currently provides through pre-test counseling, such as information about how HIV is spread and measures to be taken for prevention of HIV transmission. They further argued that post-test counseling should be retained because it is important for patients who test negative for HIV, especially those who engage in high-risk behaviors. Finally, they argued against eliminating the written consent requirement because written consent is needed to ensure that information has been provided to patients and that consent has been given. We will not make any changes to the final rule based upon these comments.

VA is committed to ensuring that Veterans continue to receive thorough and accurate information about HIV and HIV testing, and that HIV testing is performed only after the patient or the patient's surrogate has received this information (see below) and specifically consented to undergo such testing. By eliminating the requirements for pre-test counseling, post-test counseling, and written informed consent for HIV testing, VA is not weakening patient protections, but merely streamlining its protocols to make them less cumbersome for practitioners and patients alike.

Specifically, VA intends to use a variety of methods, including but not limited to those recommended by the Centers for Disease Control, to ensure that the current level of protections for patients is maintained. These methods

include providing patients with written education materials that cover much of the information that was previously covered in pre-test and post-test counseling, and ensuring that patients who engage in high risk behaviors are referred to necessary prevention services. Instead of using a written consent form to ensure that the information has been provided to patients and that consent has been given, VA practitioners will be required to document the oral informed consent process in a progress note. VA will implement this rule through internal policy guidance specifying these requirements and how they apply to HIV testing. Thus the final rule enables VA to streamline its procedures by removing unnecessary barriers to HIV testing, while still ensuring that patients are provided with accurate and thorough information about HIV and HIV testing, and that HIV testing is only performed with the full and informed consent of the patient or the patient's surrogate.

Of note, VA already has on its HIV Web site (*http://www.hiv.va.gov*) extensive educational materials on HIV and HIV testing, directed at both clinical providers and patients. We will direct patients to this Web site (in addition to other available resources) which addresses topics including the benefits and risks of HIV testing; how HIV testing is performed and interpreted; available treatments for HIV; and VA confidentiality protections for HIV-infected patients. This web site receives hundreds of thousands of page views per month, and represents a resource that is widely available to providers, Veterans, and the general public. Joint commenters also assert that the title of the NPRM was confusing and misleading because it referred to elimination of pre-test counseling, implying that VA providers will not have to provide information on HIV testing to Veteran patients. The title of the notice has no substantive effect, and to the extent that anyone might find it misleading, VA's intent is clear from everything that follows the proposed rule title and as described in this final notice.

The Joint commenters also favor mandated pre-test counseling on HIV testing because of other benefits to patients, including increasing testing rates and education of patients about HIV, including methods of preventing transmission. VA agrees that these are important goals; however, it respectfully disagrees that mandated pre-test counseling is required to achieve them. VA has already encouraged providers to routinely discuss HIV risk factors and to offer testing to all veterans who are at risk for HIV. *See, e.g.,* Information Letter IL 10–2005–017, *Need For Routine Human Immunodeficiency Virus (HIV) Risk Assessment And Testing.* VA intends to promulgate and implement a written policy directive extending this guidance to require providers to offer HIV testing to all patients, not just those at high risk. In addition, because of its electronic medical record and computerized provider ordering entry system, VA has the capacity to utilize technologies such as electronic reminders and other mechanisms to increase testing rates. Use of such mechanisms has been shown to aid in increasing HIV testing rates in the VA system. MB Goetz et al., *A system-wide intervention to improve HIV testing in the Veterans Health Administration.* 23 J Gen Intern Med 1200–1207 (2008). However, we believe that these mechanisms alone are insufficient to adequately expand HIV testing within VA. The overall rates within VA remain low, even in facilities that have implemented these practices. RO Valdiserri et al. *Frequency of HIV screening in the Veterans Health Administration: Implications for early diagnosis of HIV infection,* 20 AIDS Educ Prev 258–264 (2008).

The commenters also assert that mandated pre-test and post-counseling are necessary to ensure linkage to care. VA respectfully disagrees. The literature cited by the commenters in support of this point is drawn from settings outside the VA; in fact, VA has an excellent record of linkage to care, with current data showing that greater than 75 percent of all HIV-infected Veterans in care within the VA system are on anti-retroviral therapy, and that over 90 percent of all HIV-infected Veterans in care within the VA system who require prophylaxis against opportunistic infections do in fact receive such prophylaxis.

The commenters also object that Congress did not intend for VA to remove requirements for written informed consent and pre-test and post-counseling, asserting that the Congress' primary goal was simply to remove the prohibition of wide-spread HIV testing. VA respectfully disagrees with this interpretation, based on the discussion of this issue in the NPRM of the plain language and history of the Veterans Mental Health Care and Other Improvements Act of 2008 (Pub. L. 110–387). As further evidence of Congress' intent, the Senate Report on the predecessor bill criticized VA for not adopting CDC's recommendations on HIV testing (which include removing requirements for written informed consent and pre-test counseling). S. Rep. 110–85, at 56 (2008).

The commenters also argue that mandated post-test counseling should be retained because it may decrease the risk of continued high-risk behavior by patients who have a negative HIV test. VA agrees with the importance of decreasing high-risk behavior, and as part of our directives and internal guidance, we will require providers to counsel patients who are engaged in high-risk behavior and to refer them as clinically appropriate to resources to reduce such high-risk behavior. Providers will also be required to offer repeat testing to high-risk individuals at least annually, as recommended by CDC.

Finally, the same commenters argued that VA should retain the written informed consent requirement because it protects VA practitioners from liability. We disagree that this is a valid argument in support of keeping the written informed consent requirement. VA's informed consent regulations and policy are designed to benefit and protect the patient; not to benefit VA practitioners or the Department.

To the extent that the commenters requested that VA expand the scope of its testing or discuss post-test counseling, these comments were beyond the scope of this rulemaking. However, as noted earlier, VA intends to promulgate and implement a written policy on this issue. The policy guidance states that it is VHA policy that HIV testing is part of routine medical care; that providers recommend HIV testing to all veterans; that providers obtain full and informed consent of the veteran prior to testing; and that veterans who test positive for HIV infection must be referred for state-of-the-art HIV treatment, prevention of complications, and care of related conditions as soon as possible after diagnosis.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an 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 year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act**

This document contains no provisions constituting a collection of information

under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary of Veterans Affairs hereby certifies that this final rule would 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. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, this final rule is exempt, pursuant to 5 U.S.C. 605(b), from the final regulatory flexibility analysis requirements of section 604.

**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 Executive Order classifies a ''significant regulatory action,'' requiring review by the 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 governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has determined that it is a significant regulatory action under Executive Order 12866.

**Catalog of Federal Domestic Assistance**

This final rule would affect the program that has the following Catalog of Federal Domestic Assistance program number and title: 64.009—Veterans Medical Care Benefits. To the extent that VA directly provides medical care to patients under the Civilian Health and Medical Program of the Department of Veterans Affairs or other programs, this rule would also affect those programs, which have no Catalog of Federal Domestic Assistance program numbers.

**List of Subjects in Part 17**

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

Approved May 15, 2009.

**John R. Gingrich,**

*Chief of Staff, Department of Veterans Affairs.*

■ For the reasons stated in the preamble, 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. Section 17.32 is amended by:

■ a. In paragraph (d)(1)(iv), adding ''or'' after the semicolon at the end of the paragraph.

■ b. In paragraph (d)(1)(v), removing ''; or'' and adding, in its place, a period at the end of the paragraph.

■ c. Removing paragraph (d)(1)(vi).

■ d. Removing paragraph (g)(4).

[FR Doc. E9–16898 Filed 7–15–09; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2007–0905; FRL–8931–1]**

## Approval and Promulgation of Implementation Plans; Texas; Revisions to General Air Quality Rules and the Mass Emissions Cap and Trade Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking a direct final action to approve portions of one revision to the Texas State Implementation Plan (SIP) submitted by the State of Texas on August 16, 2007; these portions of the SIP revision approved: Repeal an unnecessary effective date in the Texas SIP under Title 30 in the Texas Administrative Code (TAC), Chapter 101—General Air Quality Rules, Subchapter A—General Rules; and make non-substantive changes in the Texas SIP to the Mass Emissions Cap and Trade Program (MECT) under 30 TAC Chapter 101, Subchapter H—Emissions Banking and Trading, Division 3. EPA has determined that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, are consistent with EPA policies, and will improve air quality. This action is being taken under section 110 and parts C and D of the Act.

**DATES:** This direct final rule is effective on September 14, 2009 without further notice, unless EPA receives relevant adverse comment by August 17, 2009. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R06–OAR–2007–0905, by one of the following methods:

(1) *www.regulations.gov:* Follow the online instructions for submitting comments.

(2) *E-mail:* Mr. Jeff Robinson at *robinson.jeffrey@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

(3) *U.S. EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.

(4) *Fax:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), at fax number 214–665–6762.

(5) *Mail:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(6) *Hand or Courier Delivery:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R06–OAR–2007–0905. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that 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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should 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 the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15-cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning today's direct final action, please contact Ms. Adina Wiley (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at *wiley.adina@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever any reference to ''we,'' ''us,'' or ''our'' is used, we mean EPA.

**Table of Contents**

I. What Action Is EPA Taking?
II. What Did Texas Submit?
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## I. What Action Is EPA Taking?

We are taking direct final action to approve portions of one revision to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) on August 16, 2007. One of the portions of the August 16, 2007 SIP revision submittal repeals an unnecessary effective date in the Texas SIP that is under the General Air Quality Rules found at 30 TAC Chapter 101, Subchapter A. Another portion of the August 16, 2007 submittal revises the MECT Program in the Texas SIP that is under 30 TAC Chapter 101, Subchapter H, Division 3. The MECT Program in the Texas SIP is non-substantively revised to correctly update the name and acronym of the Houston/Galveston/Brazoria ozone nonattainment area and to update the cross-references to the stationary source nitrogen oxide ($NO_X$) rules found in the Texas SIP at 30 TAC Chapter 117 as a result of the non-substantive recodification of Chapter 117 approved by EPA as part of the Texas SIP on December 3, 2008 (see 73 FR 73562). Consequently, we are approving the repeal of section 101.22 from the Texas SIP, and revisions to the Texas SIP at sections 101.350(10), 101.351(a), 101.353(a), 101.354(a) and (e), and 101.360(a)(3) submitted on August 16, 2007 by the TCEQ.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on September 14, 2009 without further notice unless we receive relevant adverse comment by August 17, 2009. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## II. What Did Texas Submit?

We are approving portions from one SIP revision that TCEQ adopted on July 25, 2007 and submitted to EPA on August 16, 2007. A copy of the revised rule as well as the Technical Support Document (TSD) can be obtained from the Docket, as discussed in the ''Docket'' section above. A discussion of the specific Texas rule changes that we are approving is included in the TSD and summarized below. The TSD also contains a discussion as to why EPA is not taking action on certain provisions of this Texas SIP submittal. We are not acting today upon revisions to the general air quality definitions at 30 TAC Chapter 101, Subchapter A, section 101.1 because previous revisions are still pending for review by EPA. We are also not acting today upon the revisions to the Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 1, sections 101.302 and 101.306 because EPA is still reviewing a previous revision to the SIP submitted on October 24, 2006. Similarly, we are not acting today upon the revisions to the Discrete Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 4, sections 101.372 and 101.376 because the October 24, 2006 SIP revision is still under EPA review. EPA has not yet taken action on the System Cap Trading Program at 30 TAC

Chapter 101, Subchapter H, Division 5 and therefore is not acting today upon revisions to sections 101.383 and 101.385.

*A. 30 TAC Chapter 101, Subchapter A*

Section 101.22—Effective Date

The existing SIP-approved version of section 101.22 was adopted by the State of Texas on July 20, 1981, and approved by EPA on April 22, 1982 (*see* 47 FR 17285). Section 101.22 established an effective date by which the general air quality rules found at 30 TAC Chapter 101 are in force in the State of Texas. The TCEQ repealed section 101.22 on July 25, 2007.

*B. 30 TAC Chapter 101, Subchapter H, Division 3*

1. Section 101.350—Definitions

The existing SIP-approved version of section 101.350(1)–(14) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). The revisions to section 101.350(10) adopted by the TCEQ on July 25, 2007, update the name and acronym of the Houston/Galveston (HGA) ozone nonattainment area to Houston/Galveston/Brazoria (HGB) ozone nonattainment area, consistent with the 1997 eight-hour ozone designations.

2. Section 101.351—Applicability

The existing SIP-approved version of section 101.351(a) and (b) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (see 71 FR 52664). The revisions to section 101.351(a) and (a)(1) adopted by the TCEQ on July 25, 2007, update the name of the Houston/Galveston/Brazoria ozone nonattainment area to be consistent with the definitions at section 101.350, update cross-references to stationary source $NO_X$ rules at 30 TAC Chapter 117 as a result of the Chapter 117 recodification to the Texas SIP, and provide grammatical changes.

3. Section 101.353—Allocation of Allowances

The existing SIP-approved version of section 101.353(a)–(h) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). The revisions to section 101.353(a) adopted by the TCEQ on July 25, 2007, update the allowance calculation figure to correctly cross-reference the recodified stationary source $NO_X$ rules to the Texas SIP at 30 TAC Chapter 117.

4. Section 101.354—Allowance Deductions

The existing SIP-approved version of section 101.354(a)–(g) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). TCEQ revised section 101.354(a) and (e) to correctly cross-reference the recodified stationary source $NO_X$ rules to the Texas SIP at 30 TAC Chapter 117.

5. Section 101.360—Level of Activity Certification

The existing SIP-approved version of section 101.360(a)–(c) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). TCEQ revised section 101.360(a)(3) to correctly cross-reference the recodified stationary source $NO_X$ rules to the Texas SIP at 30 TAC Chapter 117.

## III. What Is EPA's Evaluation of This SIP Revision?

*A. 30 TAC Chapter 101, Subchapter A*

Section 101.22—Effective Date

The July 25, 2007, repeal of section 101.22 is approvable. The Texas Administrative Code does not need to include the effective date for the general air rules since each section now has its own effective date included at the end of each section. Additionally, EPA includes the effective date for each section that is approved into the Texas SIP at 40 CFR 52.2270(c).

*B. 30 TAC Chapter 101, Subchapter H, Division 3*

1. Section 101.350—Definitions

The revisions to section 101.350(10) adopted by the TCEQ on July 25, 2007, are approvable. These revisions are non-substantive and serve only to update the name and acronym of the Houston/Galveston (HGA) ozone nonattainment area to Houston/Galveston/Brazoria (HGB) ozone nonattainment area, consistent with the 1997 eight-hour ozone designations. These revisions to do not affect the functionality of the SIP-approved MECT program.

2. Section 101.351—Applicability

The revisions to section 101.351(a) and (a)(1) adopted by the TCEQ on July 25, 2007, are approvable. These non-substantive revisions update the name of the Houston/Galveston/Brazoria ozone nonattainment area to be consistent with the definitions at section 101.350, update cross-references to the stationary $NO_X$ rules at 30 TAC Chapter 117 as a result of the Chapter 117 recodification to the Texas SIP, and provide grammatical changes. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-approved section of Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not alter the applicability or functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.351<br>As adopted by TCEQ December 13, 2002, effective January 17, 2003<br>Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references<br>As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| *§ 101.351(a) refers to sections:*<br>§ 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas.<br>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.<br>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources. | *§ 101.351(a) refers to sections:*<br>§ 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area.<br>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.<br>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area. |

3. Section 101.353—Allocation of Allowances

The revisions to section 101.353(a) adopted by the TCEQ on July 25, 2007, are approvable. The non-substantive revisions to the allowance calculation figure correctly cross-reference the recodified stationary source $NO_X$ rules in the Texas SIP at 30 TAC Chapter 117. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-

approved section of Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not affect the calculation of allowances or the functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.353<br>As adopted by TCEQ December 13, 2002, effective January 17, 2003<br>Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references<br>As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| *Figure 101.353(a)(2) refers to sections:* | *Figure 101.353(a)(2) refers to sections:* |
| § 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas. | § 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area. |
| § 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas. | § 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area. |
| § 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources. | § 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area. |
| *Figure 101.353(a)(3) refers to sections:* | *Figure 101.353(a)(3) refers to sections:* |
| § 117.206(c)(1)(A) and (B)—ESADs for gas-fired boilers ..... | § 117.310(a)(1)(A) and (B)—ESADs for gas-fired boilers. |
| § 117.206(c)(2)(A)—fluid catalytic cracking units ..... | § 117.310(a)(2)(A)—fluid catalytic cracking units. |
| § 117.206(c)(5)—wood fuel fired boilers ..... | § 117.310(a)(5)—wood fuel-fired boilers. |
| § 117.206(c)(8)(A)(i)—process heaters other than pyrolysis reactors. | § 117.310(a)(8)(A)(i)—process heaters other than pyrolysis reactors. |
| § 117.206(c)(8)(B)—process heaters that are pyrolysis reactors ..... | § 117.310(a)(8)(B)—process heaters that are pyrolysis reactors. |
| § 117.206(c)(9)(A)(ii)—stationary, reciprocating internal combustion engines that are gas-fired rich burn engines not fired on landfill gas. | § 117.310(a)(9)(A)(ii)—stationary, reciprocating internal combustion engines that are gas-fired rich burn engines not fired on landfill gas. |
| § 117.206(c)(10)—stationary gas turbines ..... | § 117.310(a)(10)—stationary gas turbines. |
| § 117.206(c)(11)—duct burners used in turbine exhaust ducts ..... | § 117.310(a)(11)—duct burners used in turbine exhaust ducts. |
| *Figure 101.353(a)(5) refers to sections:* | *Figure 101.353(a)(5) refers to sections:* |
| § 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas. | § 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area. |
| § 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas. | § 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area. |
| § 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources. | § 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area. |
| *Figure 101.353(a)(6) refers to sections:* | *Figure 101.353(a)(6) refers to sections:* |
| § 117.206(c)(17)—alternative to the emission specifications in (c)(1)–(16). | § 117.310(a)(17)—alternative to the emission specifications in (a)(1)–(16). |
| § 117.475(c)(6)—alternative to the emission specifications in (c)(1)–(5). | § 117.2010(c)(6)—alternative to the emission specifications in (c)(1)–(5). |

4. Section 101.354—Allowance Deductions

The July 25, 2007, revisions to section 101.354(a) and (e) are approvable. These non-substantive revisions correctly cross-reference the recodified stationary source $NO_X$ rules in the Texas SIP at 30 TAC Chapter 117. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-approved section of Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not affect the calculation of allowances or the functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.354<br>As adopted by TCEQ December 13, 2002, effective January 17, 2003<br>Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references<br>As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| *§ 101.354(a) refers to sections:* | *§ 101.354(a) refers to sections:* |
| § 117.114—Emission Testing and Monitoring for the Houston/Galveston Attainment Demonstration for Utility Electric Generation in Ozone Nonattainment Areas. | § 117.1240—Continuous Demonstration of Compliance for Utility Electric Generation Sources in HGB Ozone Nonattainment Area. |
| § 117.214—Emission Testing and Monitoring for the Houston/Galveston Attainment Demonstration for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas. | § 117.340—Continuous Demonstration of Compliance for Major Industrial, Commercial, and Institutional Sources in the HGB Ozone Nonattainment Area. |
| § 117.479—Monitoring, Recordkeeping, and Reporting Requirements for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources. | § 117.2035—Monitoring and Testing Requirements for Minor Sources in HGB Ozone Nonattainment Area. |
| *§ 117.354(e) refers to sections:* | *§ 117.354(e) refers to sections:* |
| § 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas. | § 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area. |
| § 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources. | § 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area. |

| SIP-approved references in § 101.354<br>As adopted by TCEQ December 13, 2002, effective January 17, 2003<br>Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references<br>As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| § 117.206(h)(3)—changes after December 31, 2000, to a unit subjected to an ESAD in section 117.206(c).<br>§ 117.475(f)—changes after December 31, 2000 to a unit subjected to an ESAD in section 117.475(c). | § 117.310(e)(3)—changes after December 31, 2000, to a unit subject to ESAD in section 117.310(a).<br>§ 117.2010(f)—changes after December 31, 2000, to a unit subject to an ESAD in section 117.2010(c). |

5. Section 101.360—Level of Activity Certification

The July 25, 2007, revisions to section 101.360(a)(3) are approvable. These non-substantive revisions correctly cross-reference the recodified stationary source $NO_X$ rules in the Texas SIP at 30 TAC Chapter 117. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-approved section of Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not affect the calculation of allowances or the functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.360<br>As adopted by TCEQ December 13, 2002, effective January 17, 2003<br>Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references<br>As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| *§ 101.360(a)(3) refers to sections:*<br>§ 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas.<br>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.<br>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources. | *§ 101.360(a)(3) refers to sections:*<br>§ 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area.<br>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.<br>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area. |

*C. Does Approval of Texas's Rule Revisions Interfere With Attainment, Reasonable Further Progress, or Any Other Applicable Requirement of the Act?*

Section 110(l) of the CAA states that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. Our review of the Texas SIP submittals indicate that the revisions will not interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act.

## IV. Final Action

EPA is taking direct final action to approve portions of one revision to the Texas SIP submitted August 16, 2007. Specifically, EPA is approving the repeal of the effective date provision at 30 TAC Chapter 101, Subchapter A, section 101.22. EPA is also approving non-substantive revisions to the MECT program at 30 TAC Chapter 101, Subchapter H, Division 3, sections 101.350(10), 101.351(a), 101.353(a), 101.354(a) and (e), and 101.360(a)(3).

EPA is not taking action on the revisions to the general air quality definitions at 30 TAC Chapter 101, Subchapter A, section 101.1, revisions to the Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 1, sections 101.302, revisions to Discrete Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 4, sections 101.372 and 101.376, or revisions to the System Cap Trading Program at 30 TAC Chapter 101, Subchapter H, Division 5, 101.383, and 101.385. These revisions remain under review by EPA and available for future actions.

## V. Statutory and Executive Order Reviews

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

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

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 14, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 6, 2009.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ 40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended under ''Chapter 101—General Air Quality Rules'' as follows:

■ a. Under Subchapter A, by removing the entry for Section 101.22, Effective Date;

■ b. Under Subchapter H, Division 3, by revising the entries for Sections 101.350, 101.351, 101.353, 101.354, and 101.360.

The revisions read as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/subject | State approval/ submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Chapter 101—General Air Quality Rules** | | | | |
| * * | * | * | * * | * |
| **Subchapter H—Emissions Banking and Trading** | | | | |
| * * | * | * | * * | * |
| **Division 3—Mass Emissions Cap and Trade Program** | | | | |
| Section 101.350 | Definitions | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| Section 101.351 | Applicability | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| * * | * | * | * * | * |
| Section 101.353 | Allocation of Allowances | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| Section 101.354 | Allowance Deductions | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| * * | * | * | * * | * |
| Section 101.360 | Level of Activity Certification | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| * * | * | * | * * | * |

[FR Doc. E9–16866 Filed 7–15–09; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 74, No. 135
Thursday, July 16, 2009

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2009–0615; Directorate Identifier 2009–NM–043–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A310–203, –221, –222 Airplanes and Model A300 F4–605R and –622R Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

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

An A300–600 operator reported two events of IPECO pilot seat moved in the aft position, one during take-off roll and one during climb out. The investigation of these events showed that a broken/missing spring contributed to the seat not being correctly locked.

An unwanted movement of pilot or co-pilot seat in the aft direction is considered as potentially dangerous, especially during the take-off phase when the speed of the aeroplane is greater than 100 knots and until landing gear retraction.

* * * * *

The unsafe condition is potential loss of control of the airplane during take-off and landing. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

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

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS–EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0615; Directorate Identifier 2009–NM–043–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0045, dated February 27, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

An A300–600 operator reported two events of IPECO pilot seat moved in the aft position, one during take-off roll and one during climb out. The investigation of these events showed that a broken/missing spring contributed to the seat not being correctly locked.

An unwanted movement of pilot or co-pilot seat in the aft direction is considered as potentially dangerous, especially during the take-off phase when the speed of the aeroplane is greater than 100 knots and until landing gear retraction.

To prevent further incidents of inadvertent flight crew seat aft movement, this AD requires repetitive inspections of the affected seat springs and replacement of missing or broken parts. In addition, this AD requires replacement of the affected seats with modified P/N 3A218–000X–01–2 seats. Installation of both pilot and co-pilot seats P/N 3A218–000X–01–2 on an aeroplane constitutes terminating action for the repetitive inspection requirements of this AD for that aeroplane.

The unsafe condition is potential loss of control of the airplane during take-off and landing. You may obtain further information by examining the MCAI in the AD docket.

### Relevant Service Information

Airbus has issued Mandatory Service Bulletins A300–25A6210 and A310–25A2199, both dated July 9, 2008; and A300–25–6214 and A310–25–2202, both dated February 3, 2009. Airbus has also issued A300–600 Operations Engineering Bulletin 121/1, dated May 2008; and A300 Operations Engineering Bulletin 160/2, dated October 2008. The

actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

### FAA's Determination and Requirements of This Proposed AD

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

### Differences Between This AD and the MCAI or Service Information

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

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

### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 132 products of U.S. registry. We also estimate that it would take about 11 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $1,214 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $276,408, or $2,094 per product.

### Authority for This Rulemaking

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

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

### Regulatory Findings

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Airbus:** Docket No. FAA–2009–0615; Directorate Identifier 2009–NM–043–AD.

#### Comments Due Date

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

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of the AD, certificated in any category, having IPECO part number (P/N) 3A218–000X–01–1 pilot or co-pilot mechanical seats installed.

(1) Airbus Model A310–203, A310–221, and A310–222 airplanes, all serial numbers.

(2) Airbus Model A300 F4–605R and A300 F4–622R airplanes, all serial numbers.

#### Subject

(d) Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

#### Reason

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

''An A300–600 operator reported two events of IPECO pilot seat moved in the aft position, one during take-off roll and one during climb out. The investigation of these events showed that a broken/missing spring contributed to the seat not being correctly locked.

''An unwanted movement of pilot or co-pilot seat in the aft direction is considered as potentially dangerous, especially during the take-off phase when the speed of the aeroplane is greater than 100 knots and until landing gear retraction.

''To prevent further incidents of inadvertent flight crew seat aft movement, this AD requires repetitive inspections of the affected seat springs and replacement of missing or broken parts. In addition, this AD requires replacement of the affected seats with modified P/N 3A218–000X–01–2 seats. Installation of both pilot and co-pilot seats P/N 3A218–000X–01–2 on an aeroplane constitutes terminating action for the repetitive inspection requirements of this AD for that aeroplane.''

The unsafe condition is potential loss of control of the airplane during take-off and landing.

#### Actions and Compliance

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

(1) Within 90 days after the effective date of this AD, and thereafter at intervals not to exceed 30 days, do a detailed visual inspection of the two springs of the pilot seat and co-pilot seat locking device, in accordance with Airbus Mandatory Service Bulletin A310–25A2199 or A300–25A6210, both dated July 9, 2008, as applicable.

(i) If only one spring is missing or found damaged during any inspection required by paragraph (f)(1) of this AD, within 10 days after the inspection or before further flight, whichever occurs later, replace the spring with a serviceable part, in accordance with Airbus Mandatory Service Bulletin A310–25A2199 or A300–25A6210, both dated July

9, 2008, as applicable. Before an airplane may be dispatched with one spring missing or damaged, the instructions contained in Airbus A310 Operations Engineering Bulletin 160/2, dated October 2008; or A300–600 Operations Engineering Bulletin 121/1, dated May 2008; as applicable; must be accomplished by the flightcrew.

(ii) If two springs are missing or found damaged during any inspection required by paragraph (f)(1) of this AD, before further flight, replace the springs in accordance with Airbus Mandatory Service Bulletin A310–25A2199 or A300–25A6210, both dated July 9, 2008, as applicable.

(2) Replacing parts in accordance with Airbus Mandatory Service Bulletin A310–25A2199 or A300–25A6210, both dated July 9, 2008, as applicable, is not a terminating action for the repetitive inspections required in paragraph (f)(1) of this AD.

(3) As of the effective date of this AD, do not install an IPECO pilot or co-pilot mechanical seat P/N 3A218–000X–01–1 on any airplane, unless the seat has been inspected and modified, as applicable in accordance with Airbus Mandatory Service Bulletin A310–25A2199 or A300–25A6210, both dated July 9, 2008, as applicable.

(4) Within 6 months after the effective date of this AD, modify the airplane by replacing the pilot and co-pilot mechanical seats P/N 3A218–000X–01–1 with P/N 3A218–000X–01–2 seats, in accordance with Airbus Mandatory Service Bulletin A310–25–2202 or A300–25–6214, both dated February 3, 2009, as applicable.

(5) Installing both pilot and co-pilot seats P/N 3A218–000X–01–2 in accordance with Airbus Mandatory Service Bulletin A310–25–2202 or A300–25–6214, both dated February 3, 2009, as applicable, on any airplane is a terminating action for the repetitive inspections required by paragraph (f)(1) of this AD for that airplane.

(6) As of 6 months after the effective date of this AD, do not install an IPECO pilot or co-pilot mechanical seat P/N 3A218–000X–01–1 on any airplane.

(7) Although Airbus Mandatory Service Bulletins A310–25A2199 and A300–25A6210, both dated July 9, 2008, specify to submit certain information to the manufacturer, this AD does not include that requirement.

**FAA AD Differences**

**Note 1:** This AD differs from the MCAI and/or service information as follows: Although the MCAI and service information request to submit reporting information to Airbus, paragraph (f)(7) of this AD specifies that such submittal is not required.

**Other FAA AD Provisions**

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this letter.

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

**Related Information**

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0045, dated February 27, 2009, and the service information listed in Table 1 of this AD for related information.

TABLE 1—SERVICE INFORMATION

| Airbus service information | Date |
|---|---|
| A300–600 Operations Engineering Bulletin 121/1 | May 2008. |
| A310 Operations Engineering Bulletin 160/2 | October 2008. |
| Mandatory Service Bulletin A300–25–6214 | February 3, 2009. |
| Mandatory Service Bulletin A300–25A6210 | July 9, 2008. |
| Mandatory Service Bulletin A310–25–2202 | February 3, 2009. |
| Mandatory Service Bulletin A310–25A2199 | July 9, 2008. |

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

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–16939 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2009–0616; Directorate Identifier 2009–NM–070–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–100 and –300 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

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

A recent incident has been reported with a Dornier 328–100 aeroplane, where the right-hand (RH) power lever jammed in flight-idle position during the landing roll-out. The aeroplane was stopped by excessive braking.

The investigation by the operator revealed that the cockpit door locking device * * * had fallen off the RH cockpit wall and blocked the RH power/condition lever pulley/cable cluster below the door. * * *

This condition, if not corrected, could cause interference with the engine- and/or flight control cables, possibly resulting in reduced control of the aeroplane.

* * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

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

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail *gsc.op@328support.de*; Internet *http://www.328support.de*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

## Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0616; Directorate Identifier 2009–NM–070–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

## Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0082, dated April 7, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A recent incident has been reported with a Dornier 328–100 aeroplane, where the right-hand (RH) power lever jammed in flight-idle position during the landing roll-out. The aeroplane was stopped by excessive braking.
>
> The investigation by the operator revealed that the cockpit door locking device Part Number 001A252A3914012 had fallen off the RH cockpit wall and blocked the RH power/condition lever pulley/cable cluster below the door. Although the affected aeroplane had been modified, the technical investigation showed that a loose Cockpit Door Locking device could also occur on 328–100 and 328–300 aeroplanes with a standard installation.
>
> This condition, if not corrected, could cause interference with the engine- and/or flight control cables, possibly resulting in reduced control of the aeroplane.
>
> For the reasons described above, this AD requires a one-time inspection of the cockpit door locking device and the surrounding area [for proper installation] and the reporting of all findings to the TC [type certificate] holder. This AD is considered to be an interim action and the retrofit of a new design may be implemented later.

The corrective action is re-torquing the attachment screws. You may obtain further information by examining the MCAI in the AD docket.

## Relevant Service Information

328 Support Services GmbH has issued Service Bulletins SB–328–25–485 and SB–328J–25–235, both dated January 28, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

## FAA's Determination and Requirements of This Proposed AD

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

## Differences Between This AD and the MCAI or Service Information

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

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

## Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 69 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $5,520, or $80 per product.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**328 Support Services GmbH (Formerly, AvCraft Aerospace GmbH, Formerly Fairchild Dornier GmbH, Formerly Dornier Luftfahrt GmbH):** Docket No. FAA–2009–0616; Directorate Identifier 2009–NM–070–AD.

**Comments Due Date**

(a) We must receive comments August 17, 2009.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all 328 Support Services GmbH Dornier Model 328–100 and –300 airplanes, certificated in any category.

**Subject**

(d) Air Transport Association (ATA) of America Code 25: Equipment/furnishings.

**Reason**

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

A recent incident has been reported with a Dornier 328–100 aeroplane, where the right-hand (RH) power lever jammed in flight-idle position during the landing roll-out. The aeroplane was stopped by excessive braking.

The investigation by the operator revealed that the cockpit door locking device Part Number 001A252A3914012 had fallen off the RH cockpit wall and blocked the RH power/condition lever pulley/cable cluster below the door. Although the affected aeroplane had been modified, the technical investigation showed that a loose Cockpit Door Locking device could also occur on 328–100 and 328–300 aeroplanes with a standard installation.

This condition, if not corrected, could cause interference with the engine- and/or flight control cables, possibly resulting in reduced control of the aeroplane.

For the reasons described above, this AD requires a one-time inspection of the cockpit door locking device and the surrounding area [for proper installation] and the reporting of all findings to the TC [type certificate] holder. This AD is considered to be an interim action and the retrofit of a new design may be implemented later.

The corrective action is re-torquing the attachment screws.

**Actions and Compliance**

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

(1) Within 3 months after the effective date of this AD, do a detailed visual inspection of the cockpit door locking device and the surrounding area for proper installation, in accordance with the Accomplishment Instructions of 328 Support Services Service Bulletin SB–328–25–485 or SB–328J–25–235, both dated January 28, 2009, as applicable.

(2) If any discrepancy is found during the inspection specified in paragraph (f)(1) of this AD, before further flight, do the corrective action in accordance with the Accomplishment Instructions of 328 Support Services Service Bulletin SB–328–25–485 or SB–328J–25–235, both dated January 28, 2009, as applicable.

(3) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (f)(1) of this AD to the Manager, Attention Dept P1, 328 Support Services GmbH, Customer Services, P.O.B. 1252, D–82231 Wessling, Fed. Rep. of Germany; Fax +49 (0) 8153 88111–6565, at the applicable time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**FAA AD Differences**

**Note 1:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Standards, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

**Related Information**

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2009–0082, dated April 7, 2009; and 328 Support Services Service Bulletins SB–328–25–485 and SB–328J–25–235, both dated January 28, 2009; for related information.

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

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–16940 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2009–0642; Directorate Identifier 2009–NM–001–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 767 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 767 series airplanes. This proposed AD would require inspections for scribe lines in the fuselage skin at skin lap joints, the skin at certain external approved repairs, the skin around external features such as antennas, and the skin at decals; and related investigative and corrective actions if necessary. This proposed AD

results from reports of scribe lines found at skin lap joints and butt joints, around external repairs and antennas, and at locations where external decals had been cut. We are proposing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin and cause sudden decompression of the airplane.

**DATES:** We must receive comments on this proposed AD by August 31, 2009.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

## Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0642; Directorate Identifier 2009–NM–001–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

## Discussion

We have received reports indicating that scribe lines have been found by 11 operators on 13 Boeing Model 767 airplanes. Scribe lines were found at skin lap joints, butt joints, around external repairs and antennas, and at locations where external decals had been cut. Many of the scribe lines appear to have been made when sealant was removed as part of preparing the airplane for repainting. The Model 767 airplanes had accumulated between 6,300 and 24,600 total flight cycles. Although no cracks resulting from scribe lines on Model 767 airplanes have been reported to Boeing, fatigue cracks can develop in the skin at scribe line locations. Fatigue cracks, if not corrected, could grow large and cause sudden decompression of the airplane.

## Related ADs

This proposed AD is similar to two existing ADs. AD 2006–07–12, amendment 39–14539 (71 FR 16211, March 31, 2006), applies to Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–19–07, amendment 39–15198 (72 FR 60244, October 24, 2007), applies to all Boeing Model 757–200, –200PF, and –200CB series airplanes. Those ADs require inspections to detect scribe lines in the fuselage skin at certain lap joints, butt joints, external repair doublers, and other areas; and related investigative/corrective actions if necessary. Those actions resulted from reports of fuselage skin cracks adjacent to the skin lap joints on airplanes that had scribe lines.

## Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009. The service bulletin describes procedures for exploratory detailed inspections to detect scribe lines along skin lap joints, external features, external approved repairs, and decals. The service bulletin specifies removing paint and sealant from affected areas before the initial exploratory inspection. The compliance times for the exploratory inspections are 25,000, 37,500, and 50,000 total flight cycles (depending on the inspection location) plus the first scribe line inspection opportunity; or within 4,000 flight cycles after the date of the service bulletin; whichever occurs later.

The service bulletin specifies related investigative actions that include performing high frequency eddy current or ultrasonic inspections of the scribe lines to detect cracks, and the service bulletin specifies corrective actions as either repairing scribe lines and cracks or contacting Boeing for repair instructions and making the repair. The service bulletin specifies to repair cracks before further flight.

The service bulletin specifies repairing scribe lines before further flight, except when a limited return to service (LRTS) program for qualifying scribe lines would allow return to service for a limited period before scribe lines are repaired. The LRTS program includes repetitive inspections to detect cracks where scribe lines are found. To qualify for an LRTS program, scribe lines must meet certain criteria based on their depth and location. The service bulletin specifies contacting Boeing for final repair instructions, which would eliminate the need for the repetitive inspections of the LRTS program. The repetitive interval for the LRTS program is 1,500 to 9,000 flight cycles, depending on the depth and location of the scribe lines and the configuration of the airplane.

The service bulletin notes that certain inspections would not be required under the following conditions:

- The airplane had never been stripped or repainted.
- The airplane had never been stripped or repainted under the wing-to-body fairings.
- No sealant had been removed except in accordance with the specified sealant removal processes as given in Appendix A of the service bulletin.

The service bulletin specifies submitting the exploratory inspection results to Boeing.

**FAA's Determination and Requirements of This Proposed AD**

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Bulletin.'' This proposed AD would also require sending the results of the exploratory inspections to Boeing.

**Differences Between the Proposed AD and Service Bulletin**

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

**Costs of Compliance**

We estimate that this proposed AD would affect 367 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per product | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| Exploratory Inspections | 340 | $80 | None | $27,200 | 367 | $9,982,400 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Boeing:** Docket No. FAA–2009–0642; Directorate Identifier 2009–NM–001–AD.

**Comments Due Date**

(a) We must receive comments by August 31, 2009.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Boeing Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009.

**Subject**

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

**Unsafe Condition**

(e) This AD results from reports of scribe lines found at skin lap joints, butt joints, around external repairs and antennas, and at locations where external decals had been cut. We are issuing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin and cause sudden decompression of the airplane.

**Compliance**

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Inspection**

(g) At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, except as provided in paragraph (h) of this AD, do detailed exploratory inspections for scribe lines of skin lap joints, butt joints, around external repairs and antennas, and at locations where external decals may have been cut. Do all applicable related investigative and corrective actions at the times specified in the service bulletin, by accomplishing all actions specified in the Accomplishment Instructions of the service bulletin, except as provided by paragraph (i) of this AD.

**Note 1:** The inspection exemptions noted in paragraph 1.E. of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, apply to this AD.

**Exceptions to Service Bulletin Specifications**

(h) Where Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, specifies a compliance time after ''the

original issue date on this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Where Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009, specifies to contact Boeing for appropriate action, accomplish applicable actions before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

**Report**

(j) At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD: Submit a report of the findings (both positive and negative) of the inspections required by paragraph (g) of this AD. Operators may use the reporting form contained in Appendixes B and C, as applicable, of Boeing Alert Service Bulletin 767–53A0193, Revision 1, dated April 9, 2009. Send the report to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. The report must contain, at a minimum, the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**Credit for Actions Accomplished Previously**

(k) Actions accomplished previously in accordance with Boeing Alert Service Bulletin 767–53A0193, dated November 25, 2008, are considered acceptable for compliance with the applicable actions specified in this AD.

**Alternative Methods of Compliance (AMOCs)**

(l)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

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

Issued in Renton, Washington, on July 2, 2009.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–16872 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2009–0613; Directorate Identifier 2009–NM–013–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A310–221, –222, –322, –324, and –325 Airplanes, and Model A300B4–620, B4–622, B4–622R, F4–605R, and F4–622R Airplanes, Equipped With Pratt & Whitney PW4000 or JT9D–7R4 Series Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

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

During the year 2000, life extension exercise programs were launched for Airbus A310 and A300–600 aircraft. Certification of Extended Service Goal (ESG) is based on analysis, except for fan cowl and thrust reverser (T/R) latches, which are always certified by tests.

* * * testing of the T/R door centre latch has shown that this does not meet the requirements for ESG.

* * * * *

The unsafe condition is possible failure of the T/R latch and detachment of the T/R from the airplane, which could result in structural damage and consequent reduced controllability of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

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

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS–EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; *e-mail: account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

**Examining the AD Docket**

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

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the

**ADDRESSES** section. Include ''Docket No. FAA–2009–0613; Directorate Identifier 2009–NM–013–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

## Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0226, dated December 19, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During the year 2000, life extension exercise programs were launched for Airbus A310 and A300–600 aircraft. Certification of Extended Service Goal (ESG) is based on analysis, except for fan cowl and thrust reverser (T/R) latches, which are always certified by tests.
>
> Currently, the Airworthiness Limitation Item (ALI) task 54–50–28 for engine pylon T/R hinges requires inspection every 1,200 Flight Cycles (FC). An analysis performed by Airbus shows that forward and aft T/R door latches have been demonstrated successful for ESG, with inspection task every 1,200 FC. However, testing of the T/R door centre latch has shown that this does not meet the requirements for ESG.
>
> For the reason described above, this EASA AD requires the replacement of the T/R centre latches with serialized latches on LH [left hand] and RH [right hand] engines and repetitive inspections [for cracking] of the serialized latches. In addition, this AD introduces a life limit of 18,000 FC for the serialized centre latches.

The unsafe condition is possible failure of the T/R latch and detachment of the T/R from the airplane, which could result in structural damage and consequent reduced controllability of the airplane. The corrective action includes replacing the T/R latch if any surface crack is found during any inspection. You may obtain further information by examining the MCAI in the AD docket.

## Relevant Service Information

Airbus has issued Mandatory Service Bulletins A300–78–6029 and A310–78–2030, both including Appendix 1, both dated October 3, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

## FAA's Determination and Requirements of This Proposed AD

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

## Differences Between This AD and the MCAI or Service Information

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

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

## Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 207 products of U.S. registry. We also estimate that it would take about 30 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $6,442 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,830,294, or $8,842 per product.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Airbus:** Docket No. FAA–2009–0613; Directorate Identifier 2009–NM–013–AD.

**Comments Due Date**

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

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Airbus Model A310–221, –222, –322, –324, and –325 airplanes, and Model A300B4–620, B4–622, B4–622R, F4–605R, and F4–622R airplanes, all serial numbers; certificated in any category; equipped with Pratt & Whitney PW4000 or JT9D–7R4 series engines.

**Subject**

(d) Air Transport Association (ATA) of America Code 78: Engine exhaust.

**Reason**

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

During the year 2000, life extension exercise programs were launched for Airbus A310 and A300–600 aircraft. Certification of Extended Service Goal (ESG) is based on analysis, except for fan cowl and thrust reverser (T/R) latches, which are always certified by tests.

Currently, the Airworthiness Limitation Item (ALI) task 54–50–28 for engine pylon T/R hinges requires inspection every [1,200] Flight Cycles (FC). An analysis performed by Airbus shows that forward and aft T/R door latches have been demonstrated successful for ESG, with inspection task every 1200 FC. However, testing of the T/R door centre latch has shown that this does not meet the requirements for ESG.

For the reason described above, this EASA AD requires the replacement of the T/R centre latches with serialized latches on LH [left hand] and RH [right hand] engines and repetitive inspections [for cracking] of the serialized latches. In addition, this AD introduces a life limit of 18000 FC for the serialized centre latches.

The unsafe condition is possible failure of the T/R latch and detachment of the T/R from the airplane, which could result in structural damage and consequent reduced controllability of the airplane. The corrective action includes replacing the T/R latch if any surface crack is found during any inspection.

**Actions and Compliance**

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

(1) Before the accumulation of 30,000 total flight cycles since first flight of the airplane, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later: Replace the non-serialized T/R center latch LH (left hand) and RH (right hand) sides, having part number (P/N) 221D0029–11 and P/N 221D0029–13, with a serialized T/R center latch having P/N 221D0029–15 in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–78–6029 or A310–78–2030, both including Appendix 1, both dated October 3, 2008; as applicable.

(2) Within 1,200 flight cycles after accomplishing the replacement required by paragraph (f)(1) of this AD: Perform an inspection for surface cracking of the T/R center serialized latches having P/N 221D0029–15, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–78–6029 or A310–78–2030, both including Appendix 1, both dated October 3, 2008; as applicable. If any crack is found, before further flight, replace the serialized T/R center latch with a new serialized T/R center latch in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–78–6029 or A310–78–2030, both including Appendix 1, both dated October 3, 2008; as applicable. Repeat the inspection thereafter at intervals not to exceed 1,200 flight cycles.

(3) Before the accumulation of 18,000 total flight cycles since accomplishing the most recent replacement required by paragraph (f)(1) or (f)(2) of this AD: Replace the serialized T/R center latch having P/N 221D0029–15 with a new serialized T/R center latch having P/N 221D0029–15 in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–78–6029 or A310–78–2030, both including Appendix 1, both dated October 3, 2008; as applicable. Replacement of the center latches does not constitute terminating action for the repetitive inspections required by paragraph (f)(2) of this AD.

**FAA AD Differences**

**Note 1:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

**Related Information**

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0226, dated December 19, 2008; and Airbus Mandatory Service Bulletins A300–78–6029 and A310–78–2030, both including Appendix 1, both dated October 3, 2008; for related information.

Issued in Renton, Washington, on July 2, 2009.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–16942 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2006–25001; Directorate Identifier 2006–NM–079–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, –900 and –900ER Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

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

**SUMMARY:** We are revising an earlier proposed airworthiness directive (AD) for all Boeing Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes. That supplemental NPRM would have required a one-time inspection to determine the part numbers of the aero/fire seals of the blocker doors on the thrust reverser torque boxes on the engines, and replacing affected aero/fire seals with new improved aero/fire seals. This action resulted from a report that the top 3 inches of the aero/fire seals of the blocker doors on the thrust reverser torque boxes are not fireproof. This second supplemental NPRM revises the first supplemental NPRM by changing the compliance time for the replacement. We are proposing this second supplemental NPRM to prevent a fire in the fan compartment (a fire zone) from migrating through the seal to a flammable fluid in the thrust reverser actuator compartment (a flammable fluid leakage zone), which could result in an uncontrolled fire.

**DATES:** We must receive comments on this supplemental NPRM by August 10, 2009.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; telephone 206–544–9990; fax 206–766–5682; e-mail *DDCS@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

## Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Samuel Spitzer, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6510; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–25001; Directorate Identifier 2006–NM–079–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

## Discussion

We issued a notice of proposed rulemaking (NPRM) (the ''first supplemental NPRM'') to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. The first supplemental NPRM was published in the **Federal Register** on September 3, 2008 (73 FR 51382). The first supplemental NPRM proposed to require a one-time inspection to determine the part numbers of the aero/fire seals of the blocker doors on the thrust reverser torque boxes on the engines, and replacing affected aero/fire seals with new improved aero/fire seals.

## Actions Since First Supplemental NPRM Was Issued

Since we issued the first supplemental NPRM, we have determined that it is necessary to change the compliance time for the replacement action in paragraph (h) from ''within 60 months or 8,200 flight cycles after the effective date of this AD,'' to ''prior to further flight after doing the actions specified in paragraph (g) of this AD.'' Our intent in the first supplemental NPRM was to require replacement of an affected aero/fire seal before further flight after identification.

## Comments

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

## Additional Changes to Supplemental NPRM

For clarification purposes, we have revised paragraph (h) of this second supplemental NPRM to change ''as having an affected P/N'' to ''to have a non-fireproof seal.''

We have also added new paragraph (d) in this supplemental NPRM to identify the Air Transport Association of America code.

## FAA's Determination and Proposed Requirements of the Second Supplemental NPRM

We are proposing this second supplemental NPRM because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design. Certain changes described above expand the scope of the first supplemental NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this second supplemental NPRM.

## Costs of Compliance

There are about 2,442 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| Inspection for part number ..... | 1 | $80 | None ..... | $80 | 803 | $64,240 |

## Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Boeing:** Docket No. FAA–2006–25001; Directorate Identifier 2006–NM–079–AD.

**Comments Due Date**

(a) We must receive comments by August 10, 2009.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Boeing Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

**Subject**

(d) Air Transport Association (ATA) of America Code 78: Engine exhaust.

**Unsafe Condition**

(e) This AD results from a report that the top 3 inches of the aero/fire seals of the blocker doors on the thrust reverser torque boxes are not fireproof. The Federal Aviation Administration is issuing this AD to prevent a fire in the fan compartment (a fire zone) from migrating through the seal to a flammable fluid in the thrust reverser actuator compartment (a flammable fluid leakage zone), which could result in an uncontrolled fire.

**Compliance**

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Inspection To Determine Part Number (P/N)**

(g) Within 60 months or 8,200 flight cycles after the effective date of this AD, whichever occurs first: Perform a one-time detailed inspection to determine the color of the aero/fire seals of the blocker doors on the thrust reverser torque boxes on the engines. For any aero/fire seal having a completely grey color (which is the color of seals with P/N 315A2245–1 or 315A2245–2), with no red at the upper end of the seal, do the actions specified in paragraph (h) of this AD. For any aero/fire seal having a red color at the upper end of the seal (which indicates a different part number), no further action is required by this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the correct aero/fire seals (P/N 315A2245–7 or –8) can be conclusively determined to be installed from that review.

**Note 1:** For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

**Replace the Aero/Fire Seals**

(h) For any aero/fire seal identified during the inspection/records check in paragraph (g) of this AD to have a non-fireproof seal: Prior to further flight after doing the actions specified in paragraph (g) of this AD, replace the aero/fire seals of the blocker doors on the thrust reverser torque boxes on the engines with new, improved aero/fire seals in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–78–1074, Revision 1, dated September 15, 2005.

**Credit for Actions Done Using Previous Service Information**

(i) Replacements done before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–78–1074, dated April 7, 2005, are acceptable for compliance with the requirements of paragraph (h) of this AD.

**Alternative Methods of Compliance (AMOCs)**

(j)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Spitzer, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6510; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–16943 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2009–0611; Directorate Identifier 2008–NM–165–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model C–212–CB, C–212–CC, C–212–CD, and C–212–CE Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

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

Honeywell International, the manufacturer of the SPZ200 autopilot system installed on the EADS–CASA C–212 series aircraft, has identified a series of servo-motors * * * designed for use in the SPZ200 autopilot system, whose failure can lead to a potential unsafe flight condition. * * *

* * * * *

The unsafe condition is failure of the servo-motors, which could result in roll oscillations or possible hard-over failures when the autopilot is engaged. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

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

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact EADS–CASA, Military Transport Aircraft Division (MTAD), Integrated Customer Services (ICS), Technical Services, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 55 05; e-mail *MTA.TechnicalService@casa.eads.net*; Internet *http://www.eads.net*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

## Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0611; Directorate Identifier 2008–NM–165–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

## Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0144, dated August 1, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Honeywell International, the manufacturer of the SPZ200 autopilot system installed on the EADS–CASA C–212 series aircraft, has identified a series of servo-motors, P/N [part number] 4006719–904 and P/N 4006719–913, designed for use in the SPZ200 autopilot system, whose failure can lead to a potential unsafe flight condition. To address and correct this situation, Honeywell International has published Alert Service Bulletin (ASB) 4006719–22–A0016 (Revised) dated 1 November 2004, that identifies the affected servo-motors by serial number, recommending the removal of these units from the aircraft and including modification instructions to be accomplished prior to reinstallation.

EADS–CASA has determined that the flight safety of the C–212 aircraft is at risk. Consequently, Boletin de Servicio (Service Bulletin) SB–212–22–16 has been published to advise C–212 operators of this condition and to recommend that the affected servo-motors are modified or replaced with modified units.

For the reasons described above, this EASA AD requires the identification of the affected servo-motors and modification or replacement with modified units.

The unsafe condition is failure of the servo-motors, which could result in roll oscillations or possible hard-over failures when the autopilot is engaged. You may obtain further information by examining the MCAI in the AD docket.

## Relevant Service Information

CASA has issued Service Bulletin SB–212–22–16, dated March 13, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

## FAA's Determination and Requirements of This Proposed AD

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

## Differences Between This AD and the MCAI or Service Information

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

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

## Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 26 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $10,400, or $400 per product.

## Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I,

section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Construcciones Aeronauticas, S.A. (CASA):** Docket No. FAA–2009–0611; Directorate Identifier 2008–NM–165–AD.

### Comments Due Date

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

### Affected ADs

(b) None.

### Applicability

(c) This AD applies to CASA Model C–212–CB, C–212–CC, C–212–CD and C–212–CE airplanes, all serial numbers; certificated in any category; on which autopilot servo-drive actuators (servo-motors) having part number (P/N) 4006719–904 or 4006719–913 are installed.

### Subject

(d) Air Transport Association (ATA) of America Code 22: Auto flight.

### Reason

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

Honeywell International, the manufacturer of the SPZ200 autopilot system installed on the EADS–CASA C–212 series aircraft, has identified a series of servo-motors, P/N [part number] 4006719–904 and P/N 4006719–913, designed for use in the SPZ200 autopilot system, whose failure can lead to a potential unsafe flight condition. To address and correct this situation, Honeywell International has published Alert Service Bulletin (ASB) 4006719–22–A0016 (Revised) dated 1 November 2004, that identifies the affected servo-motors by serial number, recommending the removal of these units from the aircraft and including modification instructions to be accomplished prior to reinstallation.

EADS–CASA has determined that the flight safety of the C–212 aircraft is at risk. Consequently, Boletin de Servicio (Service Bulletin) SB–212–22–16 has been published to advise C–212 operators of this condition and to recommend that the affected servo-motors are modified or replaced with modified units.

For the reasons described above, this EASA AD requires the identification of the affected servo-motors and modification or replacement with modified units.

The unsafe condition is failure of the servo-motors, which could result in roll oscillations or possible hard-over failures when the autopilot is engaged.

### Actions and Compliance

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

(1) Within 2 months after the effective date of this AD: Identify affected servo-motors having P/N 4006719–904 and P/N 4006719–913 and modify each unit or replace with a modified unit, in accordance with the instructions of CASA Service Bulletin SB–212–22–16, dated March 13, 2006.

(2) As of the effective date of this AD, no person may install, on any airplane, a servo-motor having P/N 4006719–904 or 4006719–913, and any affected serial number identified in Honeywell Alert Service Bulletin 4006719–22–A0016, dated November 1, 2004 (referenced in CASA Service Bulletin SB–212–22–16, dated March 13, 2006, as the source of service information for accomplishing the modification), unless it has been modified in accordance with paragraph (f)(1) of this AD.

**Note 1:** The 8 digit serial number specified in Honeywell Service Bulletin 4006719–22–A0016, dated November 1, 2004, is a combination date code and serial number. The format is as follows: YYMMXXXX—YY is the year; MM is the month, and XXXX is a sequential manufacturing serial number (*e.g.,* a unit with number 0111XXXX was manufactured in November 2001).

### FAA AD Differences

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

### Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

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

### Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0144, dated August 1, 2008, and CASA Service Bulletin SB–212–22–16, dated March 13, 2006, for related information.

Issued in Renton, Washington, on July 2, 2009.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–16941 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

**[REG–130200–08]**

**RIN 1545–BI09**

## Election of Reduced Research Credit Under Section 280C(c)(3)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** This document contains proposed regulations that amend the regulations concerning taxpayers who make the election to claim the reduced research credit. The proposed regulations simplify how taxpayers make the election and affect taxpayers that claim the research credit. This document also provides a notice of a public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by October 14, 2009. Outlines of topics to be discussed at the public hearing scheduled for November 4, 2009 at 10 a.m. must be received by October 16, 2009.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–130200–08), Room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–130200–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–130200–08). The public hearing will be held in Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, David Selig, (202) 622–3040; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst, *Richard.A.Hurst@irscounsel.treas.gov,* (202) 622–7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

### Background and Explanation of Provisions

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) relating to the election for claiming the reduced research credit under section 280C(c)(3). Section 280C(c)(1) provides, in general, that no deduction shall be allowed for that portion of the qualified research expenses (as defined in section 41(b)) or basic research expenses (as defined in section 41(e)(2)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41(a).

Similarly, section 280C(c)(2) provides that if the amount of the credit determined for the taxable year under section 41(a)(1) exceeds the amount allowable as a deduction for such taxable year for qualified research expenses or basic research expenses (determined without regard to section 280C(c)(1)), the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

Section 280C(c)(3)(A) provides, in general, that in the case of any taxable year for which an election is made under section 280C(c)(3), sections 280C(c)(1) and (c)(2) shall not apply, and the amount of the credit under section 41(a) shall be the amount determined under section 280C(c)(3)(B). Under section 280C(c)(3)(B), the amount of credit for any taxable year shall be the amount equal to the excess of the amount of credit determined under section 41(a) without regard to section 280C(c)(3), over the product of the amount of credit determined under section 280C(c)(3)(B)(i), and the maximum rate of tax under section 11(b)(1).

Section 280C(c)(3)(C) provides that an election under section 280C(c)(3) for any taxable year shall be made not later than the time for filing the return of tax for such year (including extensions), shall be made on such return, and shall be made in such manner as the Secretary may prescribe. Such an election, once made, shall be irrevocable.

Section 280C(c)(4) provides that section 280C(b)(3) shall apply for purposes of section 280C(c). Under section 280C(b)(3), in the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 41(f)(1)(B)), section 280C(b) shall be applied under rules prescribed by the Secretary similar to the rules applicable under section 41(f)(1)(A) and (B).

Currently, § 1.280C–4(a) provides that the section 280C(c)(3) election to have the provisions of section 280C(c)(1) and (c)(2) not apply shall be made by claiming the reduced credit under section 41(a) determined by the method provided in section 280C(c)(3)(B) on an original return for the taxable year, filed at any time on or before the due date (including extensions) for filing the income tax return for such year. An election, once made, for any taxable year, is irrevocable for that taxable year.

The proposed regulations simplify the section 280C(c)(3) election to have the provisions of section 280C(c)(1) and (c)(2) not apply by requiring the election to be made on Form 6765, ''Credit for Increasing Research Activities.'' The form must be filed with an original return for the taxable year filed on or before the due date (including extensions) for filing the income tax return for such year. An election, once made for any taxable year, is irrevocable for that taxable year.

The IRS and the Treasury Department have received comments on whether all members of a controlled group (as defined in § 1.41–6(a)(3)(ii)) are bound by an election under section 280C(c)(3), or whether each member of a controlled group can make a separate election under section 280C(c)(3). If a taxpayer is a member of a controlled group, section 280C(c)(4) requires that the election for the reduced research credit must be determined under rules similar to rules applicable to a controlled group. Section 1.41–6(a)(1) provides that to determine the amount of research credit (if any) allowable to a trade or business that at the end of its taxable year is a member of a controlled group, a taxpayer must: (i) compute the group credit in the manner described in § 1.41–6(b), and (ii) allocate the group credit among the members of the group in the manner described under § 1.41–6(c). All members of the controlled group are required to use the same computation method, that is, the section 41(a)(1) method, the section 41(c)(4) alternative incremental research credit (alternative incremental credit) method, or the section 41(c)(5) alternative simplified research credit method, in computing the group credit for the credit year. Under section 41(h)(2), as amended by section 301(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Div. C of Public Law 110–343, 122 Stat. 3765), a taxpayer cannot elect the alternative incremental research credit under section 41(c)(4) for taxable years beginning after December 31, 2008.

The reduced research credit under section 280C(c)(3) is not a computational rule under section 41 used for computing the group credit for a credit year under §§ 1.41–6(b)(1) and

1.41–6T(b)(1). There is no change to the overall tax effect of the research credit if each member of a controlled group, after computing and allocating its share of the group credit under §§ 1.41–6(b)(1) and 1.41–6(c) and 1.41–6T(b)(1) and 1.41–6(c)(2), determines whether it wants to claim the reduced research credit under section 280C(c)(3)(B). Accordingly, the proposed regulations provide that each member of a controlled group may make the election under section 280C(c)(3) after the group credit is computed and allocated under §§ 1.41–6(b)(1) and 1.41–6(c) and 1.41–6T(b)(1) and 1.41–6T(c)(2).

**Proposed Effective Date**

The regulations are proposed to apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulation in the **Federal Register**.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6), requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' that will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the Regulatory Flexibility Act provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

The proposed rule affects individuals and small businesses engaged in research activities under section 41. The IRS has determined that this proposed rule will have an impact on a substantial number of small entities. However, the IRS also has determined that the impact on entities affected by the proposed rule will not be significant. This determination is based on the fact that the regulations would simplify the procedure for making the election for the reduced research credit under section 280C(c)(3)(C). Instead of requiring such an election to be made ''on an original return,'' the regulations specify that the election is made on Form 6765, ''Credit for Increasing Research Activities,'' which is attached to the return. This form requires only a minimal amount of time to complete and places no greater burden on the taxpayer than the current procedure. Accordingly, a Regulatory Flexibility Analysis is not required.

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

**Comments and Public Hearing**

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

A public hearing has been scheduled for November 4, 2009, at 10 a.m. in Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by October 16, 2009. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

**Drafting Information**

The principal author of these regulations is David Selig, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

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

## PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

**Par. 2.** Section 1.280C–4 is revised to read as follows:

### § 1.280C–4 Credit for increasing research activities.

(a) *In general.* An election under section 280C(c)(3) to have the provisions of section 280C(c)(1) and (c)(2) not apply and elect the reduced research credit under section 280C(c)(3)(B) shall be made on Form 6765, ''Credit for Increasing Research Activities,'' (or any successor form). In order for the election to be effective, the Form 6765 must clearly indicate the taxpayer's intent to make the section 280C(c)(3) election, and must be filed with an original return for the taxable year filed on or before the due date (including extensions) for filing the income tax return for such year, regardless of whether any research credits are claimed on the original return. An election, once made for any taxable year, is irrevocable for that taxable year.

(b) *Controlled groups of corporations; trades or businesses under common control.* A member of a controlled group of corporations (within the meaning of section 41(f)(5)), or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 41(f)(1)(B)), may make the election under section 280C(c)(3). Such member or trade or business shall make the election on Form 6765 and by the time prescribed in paragraph (a) of this section.

(c) *Effective/applicability date.* This section applies to taxable years ending on or after the date of publication of the Treasury Decision adopting these rules as final regulations in the **Federal Register**.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E9–16887 Filed 7–15–09; 8:45 am]

BILLING CODE 4830–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52

**[EPA–R06–OAR–2007–0905; FRL–8930–9]**

### Approval and Promulgation of Implementation Plans; Texas; Revisions to General Air Quality Rules and the Mass Emissions Cap and Trade Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve portions of one revision to the Texas State Implementation Plan (SIP) submitted by the State of Texas on August 16, 2007; these portions of the SIP revision proposed: Repeal an unnecessary effective date in the Texas SIP under Title 30 in the Texas Administrative Code (TAC), Chapter 101—General Air Quality Rules, Subchapter A—General Rules; and make non-substantive changes in the Texas SIP to the Mass Emissions Cap and Trade (MECT) Program under 30 TAC Chapter 101, Subchapter H—Emissions Banking and Trading, Division 3. EPA has determined that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, are consistent with EPA policies, and will improve air quality. This action is being taken under section 110 and parts C and D of the Act.

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

**ADDRESSES:** Comments may be mailed to Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the Rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning today's proposal, please contact Ms. Adina Wiley (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at *wiley.adina@epa.gov*.

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: July 6, 2009.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

[FR Doc. E9–16865 Filed 7–15–09; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 58

**[EPA–HQ–OAR–2008–0338; FRL–8930–7]**

**RIN 2060–AP15**

### Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to revise the monitoring network design requirements for ozone to assist in implementing changes to the primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone that were promulgated on March 27, 2008. EPA is proposing to modify minimum monitoring requirements in urban areas, add new minimum monitoring requirements in non-urban areas, and extend the length of the required ozone monitoring season in some States.

**DATES:** Comments must be received on or before September 14, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0338, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov*, Attention Docket ID No. EPA–HQ–OAR–2008–0338.
- *Fax:* Fax your comments to (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2008–0338.
- *Mail:* Send your comments to Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2008–0338. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* Deliver your comments to EPA Docket Center, 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0338. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be

able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

**FOR FURTHER INFORMATION CONTACT:** For technical questions, please contact Mr. Lewis Weinstock, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Ambient Air Monitoring Group (C304–06), Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3661; fax number: (919) 541–1903; e-mail address: *weinstock.lewis@epa.gov*. For general questions, please contact Ms. Lula Melton, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Assessment Division (C304–02), Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2910; fax number: (919) 541–4511; e-mail address: *melton.lula@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does This Action Apply to Me?*

Categories and entities potentially regulated by this action include:

| Category | NAICS [a] | Examples of regulated entities |
|---|---|---|
| Federal government | 924110 | Federal agencies that conduct ambient air monitoring similar to that conducted by States under 40 CFR part 58 and that wish EPA to use their monitoring data in the same manner as State data. |
| State/local/tribal government | 924110 | State, territorial, and local air quality management programs that are responsible for ambient air monitoring under 40 CFR part 58. The proposal may also affect tribes that conduct ambient air monitoring similar to that conducted by States and that desire that EPA use their monitoring data in the same manner as State monitoring data. |

[a] North American Industry Classification System.

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

Do not submit information containing CBI to EPA through *http://www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2008–0338. 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.

### *C. Where Can I Get a Copy of This Document and Other Related Information?*

In addition to being available in the docket, an electronic copy of this proposed rule is also available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of this proposed rule will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchanges in various areas of air pollution control.

### *D. How Is This Document Organized?*

The information presented in this preamble is organized as follows:

I. General Information
- A. Does This Action Apply to Me?
- B. What Should I Consider as I Prepare My Comments for EPA?
- C. Where Can I Get a Copy of This Document and Other Related Information?
- D. How is This Document Organized?

II. Summary of Proposed Ozone Network Design Requirements and Rationale
- A. What Are the Proposed Revisions to Urban Network Design Requirements?
- B. What Are the Proposed Revisions to Non-Urban Network Design Requirements?
- C. What Are the Proposed Revisions to the Length of the Required $O_3$ Monitoring Season?

III. Statutory and Executive Order Reviews
- A. Executive Order 12866: Regulatory Planning and Review
- B. Paperwork Reduction Act
- C. Regulatory Flexibility Act
- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

## II. Summary of Proposed Ozone Network Design Requirements and Rationale

### *A. What Are the Proposed Revisions to Urban Network Design Requirements?*

Presently, States (including the District of Columbia, Puerto Rico, and the Virgin Islands) and local air quality management agencies when so delegated by the State are required to operate minimum numbers of EPA-approved ozone ($O_3$) monitors based on the population of each of their Metropolitan Statistical Area (MSA) and the most recently measured $O_3$ levels for each area. These requirements are contained in 40 CFR part 58 Appendix

D, SLAMS Minimum $O_3$ Monitoring Requirements, Table D–2. These requirements were last revised on October 17, 2006, as part of a comprehensive review of ambient monitoring requirements for all criteria pollutants. (See 71 FR 61318 for the specific Table D–2 referenced above.)

Currently, the minimum number of $O_3$ monitors required in an MSA ranges from zero (for an area with a population of at least 50,000 and under 350,000 and no recent history of an $O_3$ design value greater than 85 percent of the level of the NAAQS) to four (for an area with a population greater than 10 million and an $O_3$ design value greater than 85 percent of the level of the NAAQS). Because these requirements apply at the MSA level, large urban areas consisting of multiple MSAs can be required to have more than four monitors.

Currently, there are 369 MSAs in the U.S. subject to minimum $O_3$ monitoring requirements.[1] Of these MSAs, 251 are required to have one or more monitors based on their 2005 population estimates[2] and 2005 to 2007 $O_3$ design values compared to the revised $O_3$ NAAQS, and the other 118 MSAs are not required to have monitors. The specific size range of MSAs that are not required to have monitors have urban area populations between 50,000 and less than 350,000, and have $O_3$ design values less than 85 percent of the level of the NAAQS. Some of the MSAs do not have current design values due to the lack of monitors. Also note that monitoring requirements do not apply to Micropolitan Statistical Areas.[3]

In the 251 MSAs with one or more required $O_3$ monitors, a total of 392 monitors are required to meet the minimum requirements listed in Table D–2. In actuality, 992 monitors were in operation during 2005 to 2007 representing these MSAs.[4] This monitor count exceeds the minimum requirements based on Table D–2, indicating the typical practice of operating more than the minimum required number of monitors to support the basic monitoring objectives described in part 58, Appendix D. In addition, State and local agencies operated 55 monitors during 2005 to 2007 in MSAs that were not required to have monitors.[5]

We note that many of the $O_3$ monitors that are operated in excess of minimum requirements are necessary to characterize the $O_3$ concentrations that occur in metropolitan areas and in downwind areas that are potentially impacted by transport from MSAs. As noted in Appendix D (see 71 FR 61318), $O_3$ minimum monitoring requirements do not account for the full breadth of additional factors that would be considered in designing a complete $O_3$ monitoring program for an area. Some of these additional factors include geographic size, population density, complexity of terrain and meteorology, adjacent $O_3$ monitoring programs, air pollution transport from neighboring areas, and measured air quality in comparison to all forms of the $O_3$ NAAQS (*i.e.,* 8-hour and 1-hour forms). States and EPA Regional Administrators work together to design and/or maintain the most appropriate $O_3$ network to service the variety of data needs in an area. The results of these negotiations are documented in annual monitoring network plans that are made available for public inspection and then approved by the EPA Regional Administrator, and the $O_3$ monitoring requirements in approved plans become the basis for State $O_3$ monitoring requirements for the one-year period following plan approval.

Because existing minimum monitoring requirements include a factor based on the comparison of an area's design value to the $O_3$ NAAQS (see 71 FR 61318), the recent revisions to the $O_3$ NAAQS (see 73 FR 16436) may already necessitate that some States make changes to their $O_3$ monitoring network independent of the proposed changes described below. The requirements listed in Table D–2 of 40 CFR part 58 Appendix D are based on how close measured ambient concentrations are to the level of the $O_3$ NAAQS, with a design value threshold at 85 percent of the NAAQS. For an MSA of a given population size, there are a greater number of required monitors when the design value is greater than or equal to 85 percent of the $O_3$ NAAQS than when the design value is less than 85 percent of the $O_3$ NAAQS. With the recent decision to revise the 8-hour primary and secondary standards from a level of 0.08 ppm to a level of 0.075 ppm, the 8-hour $O_3$ design value that will trigger increased minimum monitoring requirements for an MSA decreased from 0.068 ppm to 0.064 ppm. Therefore, MSAs with 8-hour design values between 0.064 ppm and 0.067 ppm are now required to increase the number of monitors operating to meet minimum requirements based on existing monitoring requirements.[6] A total of 15 MSAs have $O_3$ design values between 0.064 ppm and 0.067 ppm based on 2005 to 2007 design values. Of those 15 MSAs, 13 MSAs are already meeting requirements based on the operation of additional monitors by the affected States. Thus, current data indicate that only two areas may need additional monitors[7] on the grounds that their design values are now greater than or equal to 85 percent of the revised NAAQS.

There are 105 MSAs with populations between 50,000 and less than 350,000 that are presently without any $O_3$ monitors supporting design value calculations for either 2004 to 2006 or 2005 to 2007.[8] These unmonitored MSAs have a total population of approximately 18 million people and include areas in 37 States and Puerto Rico. The existing regulations do not require these MSAs to begin monitoring for $O_3$. Comments that were received from State air monitoring agencies and from multi-State air planning organizations in response to the $O_3$ NAAQS proposal expressed concern that these requirements ignore the needs that States and localities have for additional monitors to measure $O_3$ levels in a variety of locations, particularly in areas with populations under 350,000. The commenters stated that unless this deficiency is corrected, the health benefits of EPA's $O_3$ NAAQS revision would likely be limited to those living in MSAs having populations of more than 350,000. Other commenters noted the difficulty in defining the boundaries of new attainment/nonattainment areas without additional monitoring in the MSAs below 350,000 population.[9]

[1] MSA must contain an urbanized area of 50,000 or more population.

[2] *http://www.census.gov/population/www/estimates/metropop/2005/cbsa-01-fmt.xls.*

[3] Micropolitan Statistical Areas must have at least one urban cluster of at least 10,000 but less than 50,000 population.

[4] Of these 992 monitors, 873 monitors provided complete data for calculation of design values.

[5] Of these 55 monitors, 20 monitors provided complete data for calculation of design values.

[6] States should document the required changes to $O_3$ networks in their annual monitoring network plans that are required by 40 CFR part 58.10. Such plans are due by July 1 of each year and required to be made available for public inspection prior to submission to EPA Regional Offices for review and approval.

[7] Based on 2005 to 2007 $O_3$ design values and 2005 Census Bureau population estimates, these MSAs are Port St. Lucie-Fort Pierce, Florida, and Salem, Oregon.

[8] Approximately 18 of these MSAs have operating $O_3$ monitors but incomplete data for the purposes of calculating design values for the 2004 to 2006 and 2005 to 2007 time periods.

[9] See the $O_3$ NAAQS Response to Comments document in docket EPA–HQ–OAR–2005–0172, document number 7185, available online at *http://www.regulations.gov/fdmspublic/component/*

Continued

EPA notes that States already have the discretion to add $O_3$ monitors in these locations and in any currently unmonitored areas where applicable siting criteria can be satisfied, although they are not currently required to do so in the unmonitored MSAs below 350,000 population based on existing $O_3$ minimum monitoring requirements.

EPA has conducted a review of 8-hour design values obtained from existing monitors that are in proximity to these unmonitored MSAs of population below 350,000. Based on 2005 to 2007 data reported to the Air Quality System (AQS), approximately 25 percent of these unmonitored MSAs (26 of 105 areas) had an $O_3$ monitor within 20 kilometers (approximately 12 miles) that violated the revised NAAQS. Approximately 42 percent (44 of 105 areas) of the unmonitored MSAs had a violating $O_3$ monitor within 50 kilometers (approximately 31 miles). The close proximity of violating $O_3$ monitors to unmonitored MSAs indicates a reasonable likelihood that monitors placed in many of these unmonitored areas would have recorded violating concentrations over the same time period. When these unmonitored MSAs are evaluated in comparison to the locations of non-violating $O_3$ monitors that measured a level of greater than or equal to 85 percent of the revised NAAQS, approximately 34 percent (36 of 105 areas) were within 20 kilometers of such a monitor and 63 percent (66 of 105 areas) were within 50 kilometers. Concentrations of greater than or equal to 85 percent of the NAAQS to 100 percent of the NAAQS level obtained from many of the monitors in close proximity to these unmonitored MSAs indicates a reasonable likelihood that monitors placed in the unmonitored MSAs would have measured similar concentrations at levels over the same time period. This suggests the need for $O_3$ monitoring in these unmonitored MSAs of between 50,000 and 350,000 population to ensure that potential NAAQS violations are measured.

Based on these analyses, EPA believes it is important to monitor $O_3$ concentrations in the smaller MSAs with populations between 50,000 and less than 350,000 in light of the revised level of the standards. While it was less likely that violating concentrations of the former 0.08 parts per million (ppm [10]) primary standard were being missed due to the lack of a monitoring requirement in these MSAs, the likelihood of missing violating concentrations of the 0.075 ppm primary standard is greater, and the public comments in regard to the potential need to revise applicable $O_3$ monitoring regulations have merit.

Accordingly, EPA is proposing to modify the minimum $O_3$ monitoring requirements to require one monitor to be placed in MSAs of populations ranging from 50,000 to less than 350,000 in situations where there is no current monitor and no history of $O_3$ monitoring within the previous 5 years indicating a design value of less than 85 percent of the revised NAAQS. We propose to modify Table D–2 of 40 CFR part 58 Appendix D by moving the current footnote 4 from the right column of the table to the middle column of the table. By doing so, we propose to require greater numbers of $O_3$ monitors for MSAs that do not have design values compared with the requirements that were promulgated in the October 17, 2006 revisions to ambient monitoring regulations (see 71 FR 61318). Functionally, this modification should mainly impact MSAs in the population range between 50,000 and 350,000 since virtually all MSAs of population 350,000 or greater currently have at least two $O_3$ monitors in operation.[11]

EPA solicits comment on whether the proposed 5-year historical data period is appropriate for demonstrating that $O_3$ design values in a currently unmonitored MSA of population ranging from 50,000 to less than 350,000 have been less than 85 percent of the revised NAAQS, or whether the time period for allowing the use of historical data should be longer or shorter than 5 years.

States may wish to relocate an existing $O_3$ monitor to the unmonitored MSA to meet the proposed requirements. Opportunities for relocation may exist in areas where the current number of $O_3$ monitors in another MSA in the same State exceeds minimum requirements and the relocation of one or more of the non-required monitors meets one or more of the conditions described in 40 CFR part 58.14(c). States may also relocate a non-required $O_3$ monitor from a location outside of an MSA to an unmonitored MSA that is subject to the proposed requirements. Relocations of monitors to meet the proposed requirements would be subject to EPA Regional Administrator approval, based on a review of State-supplied information such as the ambient data trend from the monitor being proposed for relocation, the potential impact on data stakeholders with the monitor discontinuance, and the ability of other nearby $O_3$ monitors to characterize the $O_3$ conditions in the area from which the monitor is being proposed to be removed.

While States will be required to add some new monitors or relocate existing monitors to meet the proposed requirements, EPA notes that many of these unmonitored MSAs already have existing $O_3$ monitors in close proximity to their geographic boundaries. Based on the siting characteristics and data record from the existing $O_3$ monitors near the unmonitored MSAs, it is plausible that some of these monitors may adequately represent $O_3$ concentrations in the unmonitored areas based on analyses of ambient concentrations, $O_3$ precursor emissions, meteorology, photochemical modeling, and/or topography. Analyses based on these factors or other available information could be used to support case-by-case waivers from the requirement for monitoring within some of these unmonitored MSAs, as described below, thereby mitigating the expense and logistical hurdles involved with establishing new $O_3$ monitors or relocating non-required existing monitors from other areas.

In some cases where an existing monitor is located close to an unmonitored MSA that would be required to site a new monitor based on the proposed rule modification, the affected State may propose and EPA Regional Administrators may consider approving a waiver of monitoring requirements for the unmonitored MSA. When seeking such a waiver, the State must provide relevant information including the siting characteristics and data record from the existing $O_3$ monitors near the unmonitored MSA, or other information sources that the Regional Administrator must consider in evaluating the estimation of current and future $O_3$ levels in the unmonitored MSAs. The Regional Administrator may approve such requests under the waiver authority provided in paragraph 4.1.1(c) of 40 CFR part 58, Appendix D of the proposed regulatory text. Any deviations based on the Regional Administrator's waiver of requirements

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[10] Due to the data handling regulations associated with the 1997 $O_3$ NAAQS level, an 8-hour design value of 0.085 ppm was required to exceed the level of the NAAQS.

[11] Three MSAs with a population of at least 350,000 appear to have no design values for either the 2004–2006 or 2005–2007 periods. These MSAs include Anchorage, Alaska; Kileen-Temple-Fort Hood, Texas; and San Juan-Caguas-Guaymabo, Puerto Rico. The Alaska and Texas MSAs reached the 350,000 level based on the difference in the 2005 population estimate compared with the 2000 decennial census figure and would therefore be subject to minimum requirements of two monitors in each of these MSAs.

must be described in the annual monitoring network plan.

Such waiver requests must be accompanied by a letter documenting the State's commitment to propose a nonattainment designation for the unmonitored MSA based on violating readings from the nearby monitor(s) and a commitment to modify a State Implementation Plan (SIP) to provide for a specific, reproducible approach to representing the $O_3$ concentration of the unmonitored MSA in the absence of the actual monitoring data that would have been supplied by the required monitor. We request comment on the practicality of allowing States to enter into agreements with EPA Regional Administrators to use nearby $O_3$ monitors to represent the conditions within unmonitored MSAs, the specific commitments that must be included in these agreements and/or submitted plans, and the implementation challenges that may arise during the $O_3$ designation process if the EPA Regional Administrator approves of such arrangements.

In all cases described above, proposed changes to $O_3$ networks in response to the proposed new requirement would have to be documented in the annual monitoring network plans that are required by 40 CFR part 58.10 and are subject to approval by the EPA Regional Administrator.

Based on the proposed requirements described above, EPA estimates that approximately 109 new $O_3$ monitors would be required in the national $O_3$ network if the proposed urban requirement was satisfied solely with new monitors installed in the unmonitored MSAs. In actuality, we expect the net addition of new monitors to the national $O_3$ network to be less than 109 monitors due to the mitigating factors that have been previously described. These factors include the presence of existing monitors that could satisfy the proposed requirement in these unmonitored MSAs with improved data completeness, the proposed flexibility for States to relocate non-required $O_3$ monitors to the unmonitored MSAs, and the possibility of States proposing that existing monitors in close proximity to the unmonitored MSAs be used to represent $O_3$ concentrations within the unmonitored MSAs.

It has been EPA's recent practice to allow at least a one-year period for States to install new monitors when monitoring requirements are revised through rulemaking (see 71 FR 61241). Consistent with this practice and based on the projected schedule of completing a final $O_3$ monitoring rulemaking in early 2010, EPA proposes that new $O_3$ monitors be required to be installed and operating by the first day of the required $O_3$ monitoring season that is effective in 2012 as described in Table D–3 of Appendix D to part 58 (see Section II.C of this proposal for the proposed changes to the required $O_3$ monitoring seasons). For some States, new monitors would be required to be installed and operating as early as January 1, 2012, while other States would have later deadlines based on their respective $O_3$ monitoring seasons.

States would be required to identify how their monitoring networks would be modified to meet the proposed new $O_3$ requirements in the annual monitoring network plan due on July 1, 2011.

EPA also recognizes the logistical difficulty in siting new $O_3$ monitors or in relocating existing $O_3$ monitors that have been approved for discontinuation and subsequent relocation to meet the proposed requirements. Accordingly, we solicit comment on the proposed requirement for having new monitors operating in 2012, specifically whether States might need additional time to site all the new monitors (*e.g.,* a staggered 2-year deployment schedule accomplished in 2012 and 2013) versus the single-year deadline described above. We note that the deployment schedule would be applicable to the proposed urban monitoring requirements as well as the proposed non-urban monitoring requirements described in the following section.

### *B. What Are the Proposed Revisions to Non-Urban Network Design Requirements?*

The newly established secondary standard was put into place specifically to provide protection to sensitive vegetation in less urbanized areas, in particular those Class I Wilderness Areas set aside by Congress to be protected so as to conserve the scenic value and the natural vegetation and wildlife within such areas, and to leave them unimpaired for the enjoyment of future generations. The secondary $O_3$ NAAQS also considered the benefits that would be provided to the public welfare from increased protection of sensitive vegetation in other Federal, State, Tribal and/or public interest lands that have been set aside for a similar purpose. These areas are characterized by the presence of $O_3$-sensitive species of native vegetation that have been shown to be subject to $O_3$-induced visible foliar injury, impaired growth, and/or other adverse impacts to a degree that could be considered adverse.

Currently, existing $O_3$ monitoring requirements and current State monitoring practices are primarily oriented towards protecting against human health effects and therefore towards reporting compliance with the primary NAAQS. This accounts for the current focus of the monitoring requirements on urban areas, where large populations reside, in which significant emissions of $O_3$-forming precursors are found, and where $O_3$ concentrations of concern have been historically measured. EPA believes that the previously described proposed changes to urban monitoring requirements will be adequate for determining compliance with the secondary NAAQS in MSAs, noting that the assessment of welfare effects has not been a traditional objective of urban-based $O_3$ monitoring networks.

It is now known, however, that $O_3$ concentrations of concern for vegetation can also occur in areas far downwind of urban areas. In addition, the new more stringent level of the primary and secondary NAAQS make it likely that $O_3$ levels of concern for both plants and people will be found outside of urban areas. Thus, EPA believes that there is merit in proposing additional limited monitoring requirements in non-urban areas to address both secondary and primary standard needs.

Although there are currently no EPA requirements for $O_3$ monitoring other than in or adjacent to MSAs[12], there are at present about 200 State-operated $O_3$ monitors in counties that are not part of MSAs, and these monitors can be categorized in several ways. States commonly locate $O_3$ monitors both upwind and downwind of major urban areas to evaluate the spatial gradient or extent of transported $O_3$ pollution and the lag time typically associated with photochemical production. In some cases, these $O_3$ monitors are located in non-urban or rural areas within MSAs or physically outside the MSA boundary if the expected location of maximum downwind $O_3$ concentration is outside the MSA. These monitors are counted toward meeting the minimum urban $O_3$ monitoring requirements listed in Table D–2 of Appendix D since they provide information about the air quality status of an urban MSA.

States may also operate monitors in non-urban or rural areas to meet other objectives such as the support of research programs including studies of

[12] States affected by Photochemical Assessment Monitoring Stations (PAMS) requirements may be required to establish $O_3$ monitors outside of MSAs to characterize upwind or downwind concentrations. See 40 CFR part 58 Appendix D, section 5.

atmospheric chemistry and ecosystem impacts, and these monitors are not typically counted toward meeting minimum monitoring requirements applicable to urban areas. States often categorize these non-required monitors as special purpose monitors (SPMs). This provides inherent flexibility because States are allowed to discontinue operation of SPMs without EPA Regional Administrator approval, subject to the conditions of 40 CFR 58.20. Furthermore, SPMs can be operated for a period of up to 24 months without being considered in NAAQS compliance determinations.

As part of the Clean Air Status and Trends Network (CASTNET), the EPA operates 57 $O_3$ monitors, and the National Park Service (NPS) operates 23 monitors across the eastern and western U.S. The NPS also operates additional $O_3$ monitors independent of CASTNET stations. CASTNET $O_3$ monitors operate year-round and are primarily located in rural areas; siting criteria require distances of at least 40 kilometers from cities of greater than 50,000 population as well as other separation requirements from air pollution sources.[13]

Taking into account both State and EPA/NPS-operated non-urban $O_3$ monitors, an analysis of the distribution of these monitors indicates a relatively uniform spatial density in the eastern one-third of the U.S. and in California, with significant gaps in coverage elsewhere across the country. Virtually all States east of the Mississippi River have at least two to four non-urban $O_3$ monitors, while many large mid-western and western States have one or no non-urban monitors.[14]

Comments that were received from State monitoring agencies, State organizations, and private individuals in response to the $O_3$ NAAQS proposal noted the voluntary nature of most rural $O_3$ monitoring and the resulting relative lack of rural $O_3$ monitors in some areas. These commenters stated that EPA should consider adding monitoring requirements to support the secondary NAAQS by requiring $O_3$ monitors in locations that contain $O_3$-sensitive plants or ecosystems. These commenters also noted that the placement of current $O_3$ monitors may not be appropriate for evaluating issues such as vegetation exposure since many of these monitors were likely located to meet other objectives.

As explained in the following paragraphs, EPA agrees with the public input received on this issue and believes that several important objectives would be served by having additional non-urban monitoring requirements. These objectives include: (1) Provide better characterization of $O_3$ exposures to $O_3$-sensitive vegetation and ecosystems in rural/remote areas to ensure that potential secondary NAAQS violations are measured. This objective would also serve the purpose of providing more consistent support for studies examining the impact of elevated $O_3$ levels in wilderness areas, locations with $O_3$-sensitive natural vegetation, and in areas such as National Parks; (2) assessment of population exposure due to elevated ambient $O_3$ levels in smaller communities located outside of the larger urban MSAs covered by the monitoring requirements described in Section II.A; and (3) the assessment of the location and severity of maximum $O_3$ concentrations that occur in non-urban areas and may be attributable to upwind urban sources. Each of these three objectives is described below.

With regard to the first objective, there is evidence that ambient concentrations of $O_3$ in rural and other non-urban areas may be adversely affecting sensitive natural vegetation. As noted previously by the public commenters, this objective addresses the uncertainties that remain about the impact that $O_3$ concentrations have on sensitive natural vegetation, ecosystems, and wilderness areas. Additional monitors in National Parks and as well as State and/or tribal areas set aside to provide similar public welfare benefits would support evaluation of the revised secondary NAAQS as well as future reviews of the secondary $O_3$ NAAQS by providing a more robust data set with which to assess actual vegetation exposure in rural areas, and thereby reducing the need for interpolations of rural air quality.

With regard to the second objective as noted earlier in Section II.A, $O_3$ monitoring requirements do not currently apply to Micropolitan Statistical Areas, defined as areas having at least one urban cluster of at least 10,000 but less than a population of 50,000. The lack of such monitoring requirements for smaller communities has historically been based on the concept that the concentrations of $O_3$ in these non-urban areas would not be high enough relative to the NAAQS to justify the imposition of national monitoring requirements in less populated areas. However, in light of the revised level of the $O_3$ NAAQS, it is far more likely that these smaller communities could be exposed to elevated concentrations that approach or exceed the NAAQS due to the transport of $O_3$ from upwind areas and/or the formation of $O_3$ due to precursor emissions from industrial sources outside of urban areas. We note that there are 582 Micropolitan Statistical Areas in the U.S. with a total population of just under 2 million people based on the 2005 census estimate. Although States are not required to monitor in these areas, over 90 monitors providing 2005 to 2007 $O_3$ design values were operated. Of these 90 monitors, 45 monitors recorded design values exceeding the level of the revised NAAQS. A total of 86 of these 90 monitors recorded design values greater than or equal to 85 percent of the revised NAAQS. These data from monitors located in Micropolitan Statistical Areas clearly indicate the potential for violations of the NAAQS in some smaller communities located outside the boundaries of MSAs that currently have minimum monitoring requirements.

The third objective is the assessment of the location and severity of maximum $O_3$ concentrations that occur outside of urban areas. Although the location of maximum non-urban $O_3$ concentrations could occur within the boundary of a Micropolitan Statistical Area or sensitive ecosystem, it is also possible that such concentrations could occur in an unpopulated and unmonitored area. Without specific information about the location and distribution of such potentially violating maximum $O_3$ concentration areas, it would be difficult to ensure that all parts of a State meet the revised NAAQS and that all necessary emission control strategies have been accounted for in SIPs. We believe that the identification of such non-urban maximum concentration areas would support objectives including: (1) The understanding of the role of upwind urban-generated $O_3$ transport and impact in locations between MSAs, (2) the verification of photochemical models at various time-scales (*i.e.,* diurnal fluctuations, seasonal patterns) used for assessing the effectiveness of control measures as well as real-time models supporting $O_3$ forecasts, and (3) the understanding of the role of $O_3$ precursor emissions from industrial sources and development in more remote areas in the potential creation of high-$O_3$ areas in lightly

[13] *http://www.epa.gov/castnet/library/qapp_v4/QAPP_v4_Main_Body.pdf*, page 105.

[14] Based on an AQS retrieval of $O_3$ monitors reporting any data in 2007, regardless of data completeness requirements, the following States had one or zero non-urban $O_3$ monitors: Georgia, Idaho, Louisiana, Nebraska, Nevada, Montana, and Oregon. If data completeness is taken into consideration, a total of 13 States had zero non-urban $O_3$ monitors that could provide a design value for either 2004–2006 or 2005–2007.

inhabited areas that historically have been unmonitored.

Given the three objectives described above, EPA believes that there is strong justification for proposing additional limited monitoring requirements in non-urban areas to evaluate compliance with both the secondary and primary NAAQS. EPA proposes to modify 40 CFR part 58 Appendix D by adding the requirement (in proposed rule section 4.1.2) that each State operate non-urban $O_3$ monitors in addition to the current and proposed urban $O_3$ monitoring requirements detailed in Table D–2 and described in section II.A of this preamble. The first required non-urban monitor is proposed to be located in areas such as some Federal, State, or Tribal lands, including wilderness areas that have $O_3$-sensitive natural vegetation and/or ecosystems; lands with other ownership may also be appropriate. The second required non-urban monitor is proposed to be required to be placed in a Micropolitan Statistical Area expected to have $O_3$ design value concentrations of at least 85 percent of the NAAQS.[15] The third required non-urban monitor is proposed to be in the area of expected maximum $O_3$ concentration outside of any MSA, potentially including the far-downwind transport zones of currently well-monitored urban areas.

EPA proposes to require that States will propose new non-urban $O_3$ monitoring sites to meet each of the distinct monitoring objectives, and that the resulting expanded network will provide the foundation for an improved level of characterization of $O_3$ concentrations outside of urban areas in support of the secondary and primary NAAQS. In some cases, States may wish to operate additional non-urban monitors beyond the proposed minimum requirements where, for example, there are multiple sensitive ecosystems or wilderness areas impacted by $O_3$, multiple Micropolitan Statistical Areas exposed to high levels of $O_3$, or in States with multiple isolated locations of similarly high projected $O_3$ concentrations.

EPA solicits comment on the proposed non-urban $O_3$ monitoring requirements including the total number of required monitors per State, the appropriateness of the distinct non-urban objectives, the ability of such an expanded network to improve characterization of $O_3$ concentrations in support of the revised secondary and primary NAAQS, and the capability of the proposed network to support other objectives such as model validation.

States will likely need to perform additional analyses to help determine the appropriate locations for non-urban monitors meeting the proposed requirements. States are encouraged to confer with partners familiar with the patterns of vegetation damage and distribution of $O_3$ sensitive species in their areas, such as Federal Land Managers, State, local, or Tribal ecosystem assessment experts, or academic researchers who have established experience in the field.[16] Resources and analyses such as the availability of photochemical modeling, spatial interpolation of ambient data from existing $O_3$ monitors, or other quantitative assessment tools are useful to determine the areas where there are projected maximum non-urban $O_3$ concentrations, and where these regions with elevated $O_3$ (typically greater than or equal to 85 percent of the revised NAAQS) might overlap locations with $O_3$-sensitive ecosystems and other important wilderness areas and Micropolitan Statistical Areas. The availability of regional photochemical modeling based on updated emissions inventories is a very useful tool to inform proposed non-urban and/or rural $O_3$ monitoring locations in areas, such as the western U.S., where national assessments have not fully accounted for recent changes in emissions from industrial activities. EPA plans to update the current $O_3$ network design guidance document[17] in time to support the siting of new urban and non-urban $O_3$ monitors that are required by the final monitoring rule.

Monitors counted toward satisfying these proposed non-urban requirements would have to be operated in compliance with all requirements of 40 CFR part 58 and Appendices A, C, D, and E. EPA recognizes that a different set of monitor placement criteria from the current Appendix E requirements might be appropriate for locating non-urban $O_3$ monitors compared with urban $O_3$ monitors. For example, in less populated areas, States may wish to establish different setback requirements from roadways, minimum distances from urban areas or significant pollution sources, or consider a different set of vertical probe height requirements. EPA is not proposing specific changes to the monitoring regulations to support non-urban $O_3$ monitoring other than the changes already noted to Appendix D. EPA encourages States to consider guidelines such as the previously noted siting guidelines used for the CASTNET network. We solicit comment on the need and substance of alternative non-urban $O_3$ siting requirements and what changes would be appropriate for sites that will support the previously stated non-urban monitoring objectives.

EPA also acknowledges that there may be a logistical challenge in operating monitors that are more physically remote than the monitors that States have typically run to satisfy urban monitoring requirements. The operation of such monitors could, in some cases, create additional challenges for monitoring agencies. EPA solicits comment on any changes to the monitoring requirements that apply specifically to non-urban monitors that might be appropriate to mitigate any increased challenges potentially associated with their operation.

As noted earlier in section II.A, States may wish to relocate existing $O_3$ monitors to appropriate non-urban locations to meet the proposed requirements. Relocations of State and local air monitoring station (SLAMS) monitors must meet the applicable monitoring requirements and would be subject to EPA Regional Administrator approval. States may also propose that existing non-required $O_3$ monitors or those $O_3$ monitors at existing candidate or approved rural national core (NCore) stations be counted toward meeting the proposed requirements if these monitors are located in areas that satisfy the proposed non-urban monitoring objectives.

EPA expects that some States may be interested in the possibility of existing CASTNET or NPS $O_3$ monitors, or monitors operated by some other organization, being counted towards meeting the proposed non-urban minimum monitoring requirements. In these cases, EPA would require States to enter into agreements with the operators[18] of the candidate sites to insure that the sites are operated according to all 40 CFR part 58 monitoring regulations that apply to monitors categorized as SLAMS while also maintaining the monitoring requirements of the existing program. Candidate $O_3$ sites (e.g., CASTNET or NPS) utilized for meeting minimum monitoring requirements would be

[15] Monitors installed to meet the Micropolitan Statistical Area requirement could be discontinued, with Regional Administrator approval, after demonstrating an $O_3$ design value of less than 85 percent of the NAAQS.

[16] An example of available resources is posted by the National Park Service at *http://www.nature.nps.gov/air/Pubs/pdf/flag/NPSO3sensppFLAG06.pdf.*

[17] Guideline on Ozone Monitoring Site Selection, EPA–454/R–98–002, August 1998, *http://www.epa.gov/ttn/amtic/files/ambient/criteria/reldocs/r-98-002.pdf.*

[18] CASTNET $O_3$ monitors are operated by the Clean Air Markets Division of EPA's Office of Atmospheric Programs (OAP). Some CASTNET sites are operated by the National Park Service in a cooperative agreement with OAP.

required to be included in a State's annual monitoring network plan and would be subject to EPA Regional Administrator review and approval as with all other SLAMS monitors. Of the currently operating CASTNET $O_3$ monitors, the 23 NPS-operated monitors are meeting applicable quality assurance requirements and currently reporting data to AQS. The remaining CASTNET monitors are in the process of being upgraded to meet the quality assurance requirements of 40 CFR part 58 and all sites are expected to be upgraded and reporting to AQS by the latter part of 2009.

In certain cases, it may be difficult to identify suitable areas to meet each of the proposed non-urban monitoring objectives. For example, in a small relatively urbanized State, it may be difficult to distinguish between monitoring requirements for a Micropolitan Statistical Area versus a rural area impacted by maximum $O_3$ concentrations. In a remote or isolated area without significant local pollution sources or likelihood of being impacted by transport of $O_3$ precursors from another area (*e.g.*, Guam or American Samoa), it may be unwarranted to require the placement of additional non-urban monitors. States with historically lower ambient $O_3$ levels may not have Micropolitan Statistical Areas likely to experience $O_3$ concentrations of at least 85 percent of the NAAQS. It is also plausible that a State may not have ecosystems characterized by $O_3$-sensitive natural vegetation that have been designated for providing specific public welfare amenities or benefits. States might expect in some cases that the establishment of multiple non-urban $O_3$ monitors to meet one or two of the proposed non-urban monitoring objectives (*e.g.*, three monitors located in areas with sensitive ecosystems), would be more important than allocating an additional monitor to meet each of the three distinct monitoring objectives. In addition, one monitor could conceivably serve multiple purposes so that fewer than three monitors would be needed to meet these objectives.

In situations like those described above, States may choose to seek from the EPA Regional Administrator a deviation from such requirements that either modify or waive these requirements, consistent with the authority to approve deviations from non-urban $O_3$ minimum monitoring requirements stated in the proposed regulatory language in paragraph 4.1.2(e) of 40 CFR part 58, Appendix D. When seeking approval of such deviations, the State must provide relevant information specific to the basis for which the waiver is sought. Any deviations based on the Regional Administrator's waiver of requirements must be described in the annual monitoring network plan.

Based on the proposed requirements described above, EPA estimates that approximately 159 new non-urban $O_3$ monitors would be required in the national $O_3$ network if the proposed non-urban requirements were satisfied solely with new monitors. In actuality, we expect the net addition of less than 159 additional monitors to the national $O_3$ network due to the mitigating factors that have been previously described. These factors include the presence of existing non-urban monitors that are satisfactorily located to meet one or more of the proposed monitoring objectives, the proposed flexibility for States to relocate existing non-required $O_3$ monitors to non-urban areas, the option of States proposing that some existing CASTNET or NPS monitors be counted towards meeting the proposed non-urban requirements, and the possibility of States obtaining Regional Administrator waivers of certain non-urban minimum requirements based on the situations described above.

EPA solicits comment on the appropriateness of these proposed minimum non-urban monitoring requirements, including the distinct monitoring objectives, the required number of monitors, the criteria for placement, and the need to allow EPA Regional Administrators discretion to waive or modify siting criteria or minimum requirements.

### *C. What Are the Proposed Revisions to the Length of the Required $O_3$ Monitoring Season?*

Unlike the ambient monitoring requirements for other criteria pollutants that mandate year-round monitoring, $O_3$ monitoring is currently only required during the seasons of the year that are conducive to $O_3$ formation. These seasons vary in length from place to place as the conditions that determine the likely $O_3$ formation (*i.e.,* seasonally-dependent factors such as ambient temperature, strength of solar insolation, and length of day) differ by location.[19] In some locations, conditions conducive to $O_3$ formation are limited to a few summer months of the year. For example, in States with colder climates such as Montana and South Dakota, the currently required $O_3$ monitoring season has a length of 4 months. However, in other States with warmer climates such as California, Nevada, and Arizona, the currently required $O_3$ monitoring season for most sites continues all 12 months of the year.[20]

With the recent revision of the primary and secondary NAAQS to a more stringent level, the issue arises of whether in some areas the required $O_3$ monitoring season should be made longer. Lengthening the season in certain States may be appropriate as ambient $O_3$ concentrations could approach or exceed the level of the revised standard more frequently and during more months of the year than before. As noted later in this section, a related issue is the status of any currently effective Regional Administrator-granted waiver approvals to $O_3$ monitoring seasons, and the impact of proposed changes to monitoring requirements on such waiver approvals.

EPA has done an analysis to address the issue of whether extensions of currently required monitoring seasons are appropriate in light of the revised NAAQS.[21] In the analysis, we determined the number of exceedences of the revised NAAQS (*i.e.*, daily maximum 8-hour $O_3$ averages above 0.075 ppm) in the months falling outside the currently required local $O_3$ monitoring season using monitors in areas that collected $O_3$ data year-round in 2004–2006.[22] Additionally, we examined occurrences of daily maximum 8-hour $O_3$ averages of at least 0.060 ppm. This threshold represents 80 percent of the 0.075 ppm NAAQS level and provides an indicator of ambient conditions that may be conducive to the formation of $O_3$ concentrations that approach or exceed the revised NAAQS.[23]

While proposals for revising each State's required monitoring season have been based on observed data in and surrounding the State, statistically predicted exceedences were used to

[19] See 40 CFR Part 58 Appendix D, section 2.5 for a table of required $O_3$ seasons.

[20] Certain States, such as California and Arizona, have been approved for shorter seasons for a subset of $O_3$ sites, based on Regional Administrator review and approval (see 71 FR 61319 for the waiver authority).

[21] Camalier, L. and Weinstock, L. (2008) Documentation of $O_3$ Monitoring Season Analysis for the Proposed $O_3$ Monitoring Rule, available in docket.

[22] Approximately 530 $O_3$ monitors are currently operated year-round, representing 45 percent of the total $O_3$ monitoring network. They include monitors that are mandated to operate year-round due to the required $O_3$ season and other monitors that are voluntarily operated year-round by States and other organizations including EPA-operated monitors at CASTNET sites.

[23] We note that an 8-hour concentration of 0.060 ppm also corresponds to the threshold defining the revised Air Quality Index (AQI) breakpoint between the Good and Moderate indicator level (see 73 FR 16484).

validate conclusions for each State. For States where year-round data were not available, EPA developed and employed a regression model to predict the frequency of exceedences in areas during unmonitored months. The model was fit separately for each major urban area and uses the relationship between daily maximum 8-hour $O_3$ concentrations and certain meteorological variables, including temperature and relative humidity, to predict exceedences of a particular $O_3$ level.[24]

In reviewing the year-round or close to year-round $O_3$ data between 2004 and 2006, EPA's analysis found observed exceedences of the revised $O_3$ NAAQS in eight States during months outside of the current required monitoring season. The eight States are Maine, Massachusetts, New Hampshire, New Jersey, New York, South Carolina, Vermont, and Wyoming. With the exception of Wyoming, the exceedances occurred in a very limited manner and timeframe, just before the beginning of these States' required $O_3$ monitoring season (beginning in these States on April 1). Every exceedance in the aforementioned States was found to occur either on March 30 or March 31. In Wyoming, the frequency of $O_3$ exceedances before the beginning of the required $O_3$ season was higher, with multiple occurrences noted at several sites up to 2 months before the April 1 startup of required $O_3$ monitoring.[25]

The frequency of observed occurrences of maximum 8-hour average $O_3$ readings of at least 0.060 ppm was quite high across the country in months outside of the current required monitoring season. A total of 32 States experienced such occurrences; 22 States had such readings only before the required monitoring season; 9 States had such levels both before and after the required monitoring season; and 1 State had such levels only after the required monitoring season. In a number of cases, the frequency of such ambient concentrations was high, with some States experiencing between 31 to 46 out-of-season days during 2004 to 2006 at a high percentage of all operating year-round $O_3$ monitors.[26]

EPA believes that these occurrences of $O_3$ levels greater than the 0.075 ppm NAAQS and as well as greater than or equal to a threshold level of 0.060 ppm in months that are not within the currently required $O_3$ monitoring season support the proposed lengthening of the $O_3$ monitoring season requirements. We note that basing $O_3$ monitoring season requirements on the goal of ensuring monitoring when ambient $O_3$ levels reach 80 percent of the NAAQS supports established monitoring network objectives described in Appendix D of part 58, including the requirement to provide air pollution data to the general public in a timely manner[27] and to support comparisons of an area's air pollution levels against the NAAQS.

We note that the operation of $O_3$ monitors during periods of time when ambient levels reach at least 80 percent of the NAAQS ensures that persons unusually sensitive to $O_3$ are alerted to potential NAAQS exceedances. The majority of $O_3$ monitors in the U.S. report to AIRNOW, as well as to State-operated web sites and automated phone reporting systems. These programs support many objectives including real-time air quality reporting to the public, $O_3$ forecasting programs, and the verification of real-time air quality forecast models.

In conclusion, EPA believes that the stated approach of ensuring that $O_3$ monitors are operating during all periods likely to involve NAAQS exceedances supports the proposed lengthening of required $O_3$ monitoring seasons as described in detail below.

We note that basing these proposed revisions, in part, on occurrences of $O_3$ levels representing at least 80 percent of revised NAAQS represents a modification of previous guidance.[28] In the past, monitoring season requirements were based solely on $O_3$ NAAQS exceedences, although previous guidance did utilize the number of days in each month in which at least one 8-hour average $O_3$ concentration exceeded 0.080 ppm, a value slightly lower than the value of 0.084 ppm used for nonattainment determinations. This use of 0.080 ppm rather than 0.08(4) ppm as articulated in the previous NAAQS for $O_3$ resulted in a more conservative benchmark that required monitoring in months that, given reasonable measurement uncertainty, had the potential to violate the previous NAAQS.

The specific proposed changes to the required State $O_3$ monitoring seasons are detailed in the proposed changes to Table D–3 of 40 CFR part 58 Appendix D ($O_3$ Monitoring Season by State). These changes entail a proposed decrease of one month for Minnesota, an increase of 1 month (19 States), 2 months (6 States), 4 months (3 States), and 5 months (Wyoming). $O_3$ season requirements are currently split by Air Quality Control Region in Louisiana and Texas. Included in the above State-by-State accounting is the proposal to lengthen the required season in the northern part of Louisiana by 1 month (southern Louisiana $O_3$ monitors would remain on a required year-round schedule) and the proposal for the required season in Texas to become year-round for the entire State. Proposed modifications to the current requirements were based on the previously described technical analysis. In several States with limited available data, proposed changes were made using supporting information from the surrounding States; these changes were all minor, involving the addition of a maximum of 1 month to the current required season.[29]

EPA solicits comment on the proposed changes to the required $O_3$ monitoring seasons. We note that EPA Regional Administrators have previously approved deviations from the required $O_3$ monitoring seasons in direct final rulemakings, the process required before the latest monitoring rule revisions.[30] Deviations from the required $O_3$ monitoring seasons are currently permitted by paragraph 4.1(i) of 40 CFR part 58 Appendix D (see 71 FR 61319) as revised in the October 17, 2006 revisions to the ambient monitoring regulations without rulemaking. EPA is retaining the rule language permitting such deviations from the required $O_3$ monitoring seasons in proposed paragraph 4.1.1(j) of 40 CFR part 58, Appendix D. The proposed changes to $O_3$ monitoring season requirements, if finalized, will render moot previous Regional Administrator-granted waiver approvals. Post-final rule requests submitted along with relevant supporting information by States for monitoring season waivers from the revised requirements will be reviewed

[24] See: Camalier, L., Cox, B., and Dolwick, P., 2007. The effects of meteorology on $O_3$ in urban areas and their use in assessing $O_3$ trends. Atmospheric Environment 41, 7127–7137.

[25] Additional information on this $O_3$ situation is available on the Wyoming DEQ Web site: *http://deq.State.wy.us/aqd/Monitoring%20Data.asp.*

[26] Florida, South Carolina, South Dakota, Utah, and Wyoming.

[27] Public reporting requirements are detailed in 40 CFR part 58 Appendix G, Uniform Air Quality Index (AQI) and Daily Reporting. Appendix G describes the requirements for the AQI and notes that it conveys health implications of air quality and that the reports may contain appropriate health and cautionary statements. CAA section 319(a) provides EPA with a general authority to ''promulgate regulations establishing an air quality monitoring system'' that uses ''uniform air quality monitoring criteria and measures such air quality according to a uniform air quality index.''

[28] Guideline for Selecting and Modifying the Ozone Season Based on an 8-Hour Ozone Standard, EPA–454/R–98–001, June 1998, *http://www.epa.gov/ttn/amtic/files/ambient/criteria/reldocs/ozsea8hr.pdf.*

[29] Delaware, Iowa, North Dakota, and Wisconsin.

[30] See 64 FR 3028, 67 FR 57332, 69 FR 52836

by Regional Administrators using, at a minimum, the same criteria discussed in this proposal, i.e., the frequency of out-of-season $O_3$ NAAQS exceedances as well as occurrences of the Moderate AQI. Any deviations based on the Regional Administrator's waiver of requirements must be described in the annual monitoring network plan and updated in the AQS.

Current regulations permit $O_3$ monitors located at NCore multi-pollutant stations to be counted toward meeting minimum network monitoring requirements (see 71 FR 61318). The NCore network requirements were promulgated in the October 17, 2006 revisions to ambient monitoring regulations in order to build a long-term, nationwide network that supports multiple objectives including air quality trends analyses, model evaluation, ecosystem studies, and assessment of transport between urban and rural areas. In the 2006 rulemaking, EPA did not propose a different $O_3$ monitoring season for NCore stations.

NCore stations are required to operate a full suite of gaseous and particulate matter monitors as well as basic meteorology to support these objectives. Given the potential value of NCore data to support year-round scientific studies, EPA believes that it is appropriate to require that $O_3$ monitors at NCore stations be operated on a year-round basis. Accordingly, EPA proposes that the required monitoring season for NCore stations be January through December regardless of the length of the required $O_3$ monitoring season for the remainder of the SLAMS monitors within a State. EPA solicits comment on this proposed requirement.

As mentioned in Section II.A of this preamble, EPA is proposing to require that additional urban and non-urban $O_3$ monitors needed to meet the revised minimum network requirements be documented in the annual monitoring network plan, due by July 1, 2011, and that the monitors be operational by January 1, 2012. For existing $O_3$ monitors, we believe that a shorter timeline is reasonable for States to adjust their monitoring programs to reflect the proposed $O_3$ monitoring season changes. Therefore, EPA is proposing that the revised $O_3$ monitoring seasons become effective on January 1, 2011. We encourage monitoring agencies to voluntarily adopt the new $O_3$ monitoring seasons, where appropriate, during 2010. We invite comment on this proposed schedule, including whether it is reasonable for States to adopt the revised $O_3$ monitoring season 1 year prior to the deadline for installing and operating newly required $O_3$ monitors based on the proposed requirements.

EPA notes that in the proposed regulatory language for 40 CFR part 58 Appendix D, we are reprinting a number of existing paragraphs without change, including paragraphs 4.1.1(d), 4.1.1(e), 4.1.1(f), 4.1.1(g), and 4.1.1(h). We are doing so solely for the readers' convenience in order that the proposed revisions to section 4 of Appendix D appear in a single context. EPA is not re-proposing, reconsidering, or otherwise reopening any of these reprinted provisions. We will regard any comments as to these provisions as outside the scope of this proposal.

## III. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review*

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

### *B. Paperwork Reduction Act*

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR No. 2313.01.

The information collected and reported under 40 CFR part 58 is needed to determine compliance with the NAAQS, to characterize air quality and associated health and ecosystems impacts, to develop emission control strategies, and to measure progress for the air pollution program. We are proposing to modify minimum monitoring requirements in urban areas, add new minimum monitoring requirements in non-urban areas, and to extend the length of the required $O_3$ monitoring season in some States. We are proposing that new $O_3$ monitors be required to be established and operating by January 1, 2012. In addition, we are proposing that the revised $O_3$ monitoring seasons become effective on January 1, 2011.

Based on these assumptions, the annual average reporting burden for the collection under 40 CFR part 58 (averaged over the first 3 years of this ICR) for 145 respondents is estimated to be a total of 72,393 labor hours per year with a total of $6,320,187 per year. Burden is defined at 5 CFR 1320.3(b). State, local, and tribal entities are eligible for State assistance grants provided by the Federal government under the CAA which can be used for monitors and related activities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2008–0338. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 16, 2009, a comment to OMB is best assured of having its full effect if OMB receives it by August 17, 2009. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

### *C. Regulatory Flexibility Act*

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

For purposes of assessing the impact of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or

special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. The proposed amendments to 40 CFR part 58 would affect State and larger local agencies. Monitoring regulations have typically not applied to government jurisdictions of less than 50,000 people. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. We estimate the cost to State, local, and tribal governments to be approximately $6 million. Therefore, the costs of this proposed rule is much less than $100 million, and we conclude that this rule is not subject to the requirements of sections 202 and 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

*E. Executive Order 13132: Federalism*

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

This proposed rule does not have Federalism implications. EPA estimates the total cost of the proposed rule to be approximately $6 million. Therefore, it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

EPA recognizes that States will have a substantial interest in this proposed rule and any corresponding revisions to associated air quality surveillance requirements in 40 CFR part 58. Accordingly, EPA did consult with the Monitoring Steering Committee of the National Association of Clean Air Agencies during the preparation of this proposed rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It does not have a substantial direct effect on one or more Indian Tribes, since Tribes are not obligated to conduct ambient monitoring for ozone or to adopt the ambient monitoring requirements of 40 CFR part 58. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to EO 13045 because it is based solely on technology performance.

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

This action is not a ''significant regulatory action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. No significant change in the use of energy is expected because the total number of additional monitors would be relatively small.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d)(15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves environmental monitoring and measurement. Consistent with the Agency's Performance Based Measurement System (PBMS), EPA proposed not to require the use of specific, prescribed analytical methods. Rather, the Agency plans to allow the use of any method that meets the prescribed performance criteria. Ambient air concentrations of ozone are currently measured by the Federal reference method (FRM) in 40 CFR part 50, Appendix D (Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere) or by Federal equivalent methods (FEM) that meet the requirements of 40 CFR part 53. Procedures are available in part 53 that allow for the approval of an FEM for ozone that is similar to the FRM. Any method that meets the performance criteria for a candidate equivalent method may be approved for use as an FEM. This approach is consistent with EPA's PBMS. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. The EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the specified performance criteria.

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

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

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed rule amendment does not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases nor decrease environmental protection from these sources.

**List of Subjects in 40 CFR Part 58**

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

Dated: July 8, 2009.

**Lisa P. Jackson,**

*Administrator.*

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

## PART 58—[AMENDED]

1. The authority citation for part 58 continues to read as follows:

**Authority:** 42 U.S.C. 7403, 7410, 7601(a), 7611, and 7619.

## Subpart B—[Amended]

2. Section 58.10 is amended by adding paragraph (a)(5) to read as follows:

**§ 58.10 Annual monitoring network plan and periodic assessment.**

(a) * * *

(5) A plan for establishing $O_3$ monitoring sites in accordance with the requirements of appendix D to this part shall be submitted to the EPA Regional Administrator by July 1, 2011. The plan shall provide for the required $O_3$ sites to be operational by January 1, 2012 or the first day of the applicable required $O_3$ monitoring season that is effective in 2012 as listed in Table D–3 of appendix D of this part, whichever date is later.

* * * * *

3. Appendix D to Part 58 is amended by revising section 4.1 to read as follows:

**Appendix D to Part 58—Network Design Criteria for Ambient Air Quality Monitoring:**

* * * * *

4. * * *

4.1 Ozone ($O_3$) Design Criteria. State, and where appropriate, local agencies must operate $O_3$ sites to appropriately characterize urban areas as well as a limited number of non-urban areas for each State.

4.1.1 Urban Requirements. (a) The minimum monitoring requirements for characterizing $O_3$ across an urban area depend upon area size (in terms of population and geographic characteristics) and typical peak concentrations (expressed in percentages below, or near the $O_3$ NAAQS). Specific SLAMS $O_3$ site minimum requirements are included in Table D–2 of this appendix. The NCore sites are expected to complement the $O_3$ data collection that takes place at SLAMS sites with one or more pollutant measurements, and both types of sites can be used to meet the network minimum requirements. The total number of $O_3$ sites needed to support the basic monitoring objectives of public data reporting, air quality mapping, compliance, and understanding $O_3$-related atmospheric processes will include more sites than these minimum numbers required in Table D–2 of this appendix. The EPA Regional Administrator and the responsible State or local air monitoring agency must work together to design and/or maintain the most appropriate $O_3$ network to service the variety of data needs in an area.

TABLE D–2 OF APPENDIX D TO PART 58—SLAMS MINIMUM $O_3$ MONITORING REQUIREMENTS

| MSA population [1] [2] | Most recent 3-year design value concentrations ≥85% of any $O_3$ NAAQS [3] [4] | Most recent 3-year design value concentrations <85% of any $O_3$ NAAQS [3] |
|---|---|---|
| >10 million | 4 | 2 |
| 4–10 million | 3 | 1 |
| 350,000–<4 million | 2 | 1 |
| 50,000–<350,000 [5] | 1 | 0 |

[1] Minimum monitoring requirements apply to the Metropolitan Statistical Area (MSA).
[2] Population based on latest available census figures.
[3] The ozone ($O_3$) National Ambient Air Quality Standards (NAAQS) levels and forms are defined in 40 CFR part 50.
[4] These minimum monitoring requirements apply in the absence of a design value.
[5] Metropolitan Statistical Areas (MSA) must contain an urbanized area of 50,000 or more population.

(b) Within an $O_3$ network, at least one $O_3$ site for each MSA, or CSA if multiple MSAs are involved, must be designed to record the maximum concentration for that particular metropolitan area. More than one maximum concentration site may be necessary in some areas. Table D–2 of this appendix does not account for the full breadth of additional factors that would be considered in designing a complete $O_3$ monitoring program for an urban area. Some of these additional factors include geographic size, population density, complexity of terrain and meteorology, adjacent $O_3$ monitoring programs, air pollution transport from neighboring areas, and measured air quality in comparison to all forms of the $O_3$ NAAQS (*i.e.,* 8-hour and 1-hour forms). Networks must be designed to account for all of these area characteristics. Network designs must be re-examined in periodic network assessments that document the particular factors used in determining the size of the required $O_3$ monitoring network.

(c) Deviations from the above urban $O_3$ requirements are allowed if approved by the EPA Regional Administrator. States may propose and EPA Regional Administrators may consider approving a waiver of monitoring requirements for unmonitored MSAs with populations between 50,000 and less than 350,000 based on the presence of nearby existing monitors. When seeking such a waiver, the State must provide relevant information including the siting characteristics and data record from the existing $O_3$ monitors near the unmonitored MSA, or other information sources that the Regional Administrator must consider in evaluating the estimation of current and future $O_3$ levels in the unmonitored MSAs. Such waiver requests must be accompanied by a letter documenting the State's

commitment to propose a nonattainment designation for the unmonitored MSA based on violating readings from the nearby monitor(s) and a commitment to modify a State Implementation Plan (SIP) to provide for a specific, reproducible approach to representing the $O_3$ concentration of the unmonitored MSA in the absence of the actual monitoring data that would have been supplied by the required monitor. Any deviations based on the Regional Administrator's waiver of requirements must be described in the annual monitoring network plan.

(d) The appropriate spatial scales for $O_3$ sites are neighborhood, urban, and regional. Since $O_3$ requires appreciable formation time, the mixing of reactants and products occurs over large volumes of air, and this reduces the importance of monitoring small scale spatial variability.

(1) *Neighborhood scale*—Measurements in this category represent conditions throughout some reasonably homogeneous urban sub-region, with dimensions of a few kilometers. Homogeneity refers to pollutant concentrations. Neighborhood scale data will provide valuable information for developing, testing, and revising concepts and models that describe urban/regional concentration patterns. These data will be useful to the understanding and definition of processes that take periods of hours to occur and hence involve considerable mixing and transport. Under stagnation conditions, a site located in the neighborhood scale may also experience peak concentration levels within a metropolitan area.

(2) *Urban scale*—Measurement in this scale will be used to estimate concentrations over large portions of an urban area with dimensions of several kilometers to 50 or more kilometers. Such measurements will be used for determining trends, and designing area-wide control strategies. The urban scale sites would also be used to measure high concentrations downwind of the area having the highest precursor emissions.

(3) *Regional scale*—This scale of measurement will be used to typify concentrations over large portions of a metropolitan area and even larger areas with dimensions of as much as hundreds of kilometers. Such measurements will be useful for assessing the $O_3$ that is transported to and from a metropolitan area, as well as background concentrations. In some situations, particularly when considering very large metropolitan areas with complex source mixtures, regional scale sites can be the maximum concentration location.

(e) EPA's technical guidance documents on $O_3$ monitoring network design should be consulted to evaluate the adequacy of each existing $O_3$ monitor, to relocate an existing site, or to locate any new $O_3$ sites.

(f) For locating a neighborhood scale site to measure typical city concentrations, a reasonably homogeneous geographical area near the center of the region should be selected which is also removed from the influence of major $NO_X$ sources. For an urban scale site to measure the high concentration areas, the emission inventories should be used to define the extent of the area of important nonmethane hydrocarbons and $NO_X$ emissions. The meteorological conditions that occur during periods of maximum photochemical activity should be determined. These periods can be identified by examining the meteorological conditions that occur on the highest $O_3$ air quality days. Trajectory analyses, an evaluation of wind and emission patterns on high $O_3$ days, can also be useful in evaluating an $O_3$ monitoring network. In areas without any previous $O_3$ air quality measurements, meteorological and $O_3$ precursor emissions information would be useful.

(g) Once the meteorological and air quality data are reviewed, the prospective maximum concentration monitor site should be selected in a direction from the city that is most likely to observe the highest $O_3$ concentrations, more specifically, downwind during periods of photochemical activity. In many cases, these maximum concentration $O_3$ sites will be located 10 to 30 miles or more downwind from the urban area where maximum $O_3$ precursor emissions originate. The downwind direction and appropriate distance should be determined from historical meteorological data collected on days which show the potential for producing high $O_3$ levels. Monitoring agencies are to consult with their EPA Regional Office when considering siting a maximum $O_3$ concentration site.

(h) In locating a neighborhood scale site which is to measure high concentrations, the same procedures used for the urban scale are followed except that the site should be located closer to the areas bordering on the center city or slightly further downwind in an area of high density population.

(i) For regional scale background monitoring sites and non-urban monitoring sites, similar meteorological analysis as for the maximum concentration sites may also inform the decisions for locating regional scale sites. Regional scale sites may be located to provide data on $O_3$ transport between cities, as background sites, or for other data collection purposes. Consideration of both area characteristics, such as meteorology, and the data collection for both urban and non-urban objectives, such as transport, must be jointly considered for a regional scale site to be useful.

(j) Since $O_3$ levels decrease significantly in the colder parts of the year in many areas, $O_3$ is required to be monitored at SLAMS monitoring sites only during the ''ozone season'' as designated in the AQS files on a State-by-State basis and described below in Table D–3 of this appendix. Deviations from the $O_3$ monitoring season must be approved by the EPA Regional Administrator. Requests for monitoring season waivers must be accompanied by relevant supporting information. These requests will be reviewed by Regional Administrators using, at a minimum, the frequency of out-of-season $O_3$ NAAQS exceedances as well as occurrences of the Moderate air quality index level. Any deviations based on the Regional Administrator's waiver of requirements must be described in the annual monitoring network plan and updated in AQS. Changes to the $O_3$ monitoring season requirements in Table D–3 moot any previously approved Regional Administrator waivers for affected States. $O_3$ monitors at NCore stations are required to be operated on a year-round basis, i.e., January to December. Information on how to analyze $O_3$ data to support a change to the $O_3$ season in support of the 8-hour standard for a specific State can be found in reference 8 to this appendix.

TABLE D–3 TO APPENDIX D OF PART 58—OZONE MONITORING SEASON BY STATE [1]

| State | Begin month | End month |
|---|---|---|
| Alabama | March | October. |
| Alaska | April | October. |
| Arizona | January | December. |
| Arkansas | March | November. |
| California | January | December. |
| Colorado | March | September. |
| Connecticut | March | October. |
| Delaware | March | October. |
| District of Columbia | March | October. |
| Florida | January | December. |
| Georgia | February | October. |
| Hawaii | January | December. |
| Idaho | April | September. |
| Illinois | April | October. |
| Indiana | March | October. |
| Iowa | April | October. |
| Kansas | April | October. |
| Kentucky | March | October. |

TABLE D–3 TO APPENDIX D OF PART 58—OZONE MONITORING SEASON BY STATE [1]—Continued

| State | Begin month | End month |
|---|---|---|
| Louisiana AQCR 019,022 | March | November. |
| Louisiana AQCR 106 | January | December. |
| Maine | April | September. |
| Maryland | March | October. |
| Massachusetts | March | September. |
| Michigan | April | September. |
| Minnesota | April | September. |
| Mississippi | January | December. |
| Missouri | March | October. |
| Montana | May | September. |
| Nebraska | April | October. |
| Nevada | January | December. |
| New Hampshire | March | September. |
| New Jersey | March | October. |
| New Mexico | January | December. |
| New York | March | October. |
| North Carolina | March | October. |
| North Dakota | April | September. |
| Ohio | April | October. |
| Oklahoma | March | November. |
| Oregon | May | September. |
| Pennsylvania | March | October. |
| Puerto Rico | January | December. |
| Rhode Island | April | September. |
| South Carolina | February | October. |
| South Dakota | April | September. |
| Tennessee | February | October. |
| Texas | January | December. |
| Utah | April | October. |
| Vermont | March | September. |
| Virginia | March | October. |
| Washington | March | September. |
| West Virginia | April | October. |
| Wisconsin | April | October. |
| Wyoming | January | December. |
| American Samoa | January | December. |
| Guam | January | December. |
| Virgin Islands | January | December. |

[1] The required $O_3$ monitoring season for NCore stations is January through December.

4.1.2 Non-urban Requirements. (a) Each State shall install and operate at least three $O_3$ sites to monitor concentrations in non-urban areas. Three non-urban sites cannot fully characterize $O_3$ levels across most States; however, in many cases these sites can provide important representative characterization of $O_3$ not addressed by $O_3$ sites in or immediately downwind of urban areas. The total number of non-urban $O_3$ sites necessary for any one State may be more than are required in this section, especially for those States that have multiple ecosystems or wilderness areas with $O_3$-sensitive natural vegetation and/or significantly large distances between multiple Micropolitan Statistical Areas. These non-urban $O_3$ monitoring sites are in addition to the required sites used to satisfy requirements listed in Table D–2 of this appendix and their operation will be determined through negotiations between the EPA Regional Administrator and the responsible State or local air monitoring agency. Non-urban $O_3$ sites must be operated during the $O_3$ season as designated in Table D–3 of this appendix unless deviations have been approved by the EPA Regional Administrator.

(b) For sites chosen to meet non-urban monitoring requirements, each of the following objectives must be met.

(1) To provide characterization of $O_3$ exposures to $O_3$-sensitive vegetation and important ecosystems, at least one monitoring site is to be located in an area such as those set aside to conserve the scenic value and the natural vegetation and wildlife within such areas. These areas may include Federal, State, or Tribal and/or public interest lands that are subject to elevated $O_3$ concentrations compared with the rest of the State and are characterized by areas of $O_3$-sensitive natural vegetation species subject to visible foliar injury, seedling and biomass loss, and other adverse impacts to a degree that could be considered adverse.

(2) To provide $O_3$ characterization of less-populated areas, at least one monitoring site is to be located to represent a Micropolitan Statistical Area expected to have a maximum $O_3$ design value concentration of at least 85 percent of the NAAQS. Micropolitan Statistical Areas have at least one urban cluster of at least 10,000 but less than 50,000 population. Monitors meeting this requirement can be discontinued, with Regional Administrator approval, after demonstrating a design value of less than 85 percent of the NAAQS.

(3) To provide $O_3$ characterization in non-urban areas impacted by transport, at least one monitoring site is to be located in the area of expected maximum $O_3$ concentration outside of currently monitored MSAs, Micropolitan Statistical Areas, and sensitive ecosystems. This type of site could potentially include upwind transport areas or rural locations that are farther downwind from existing maximum concentration $O_3$ sites intended to represent an urban area.

(c) States are encouraged to utilize resources and analyses such as

photochemical modeling, spatial interpolation of ambient data from existing $O_3$ monitors, or other quantitative assessment tools to determine the areas where there are projected maximum non-urban $O_3$ concentrations, and where these regions with elevated $O_3$ might overlap $O_3$-sensitive ecosystems, and other important wilderness areas and Micropolitan Statistical Areas. Federal Land Managers, State, local, or Tribal ecosystem assessment experts, or academic researchers who are familiar with the patterns of vegetation damage and distribution of $O_3$ sensitive species in their areas should also be consulted. A State may propose establishing or moving a site as part of their annual monitoring network plan due each year as provided in § 58.10; however, such quantitative assessments to determine the required non-urban $O_3$ monitors shall be updated as part of the assessment of their air quality surveillance system due to the EPA Regional Administrator every 5 years as required by § 58.10.

(d) In some cases, non-urban $O_3$ monitors may already be operating by monitoring organizations (e.g., the National Park Service) other than the responsible State or local agency. State or local agencies may utilize such $O_3$ monitors for one or more of the required non-urban monitors under the following provisions:

(1) The $O_3$ monitor in use by another monitoring organization meets the quality assurance, method requirements, and probe and siting criteria as provided for in Appendices A, C, and E of this part, including any applicable approved waivers according to the conditions of each applicable appendix.

(2) The $O_3$ monitor is included in the applicable State or local agency annual monitoring network plan as provided for § 58.10.

(3) Data are included in the Annual Air Monitoring Data Certification as provided for in § 58.15.

(4) Data are submitted according to the requirements of § 58.16.

(5) Data are made available to the State or local agency in a timely manner for reports of the air quality index according to the requirements of § 58.50 and to support other real-time data objectives such as national air quality mapping or forecasting.

(6) If for any reason the $O_3$ monitor is shut down, the applicable State or local agency must address how it proposes to meet the loss of data in the next required annual monitoring network plan as provided for in § 58.10.

(e) States may choose to seek from the EPA Regional Administrator a deviation from non-urban requirements that either modify or waive these requirements, for example, in a small, relatively urbanized State, in situations where a State believes that one of the required non-urban monitors can meet more than one objective, or where a State can demonstrate that no Micropolitan Statistical Area will experience design value concentrations of at least 85 percent of the NAAQS. When seeking approval of such deviations, the State must provide relevant information specific to the basis for which the waiver is sought. Any deviations based on the Regional Administrator's waiver of requirements must be described in the annual monitoring network plan.

* * * * *

[FR Doc. E9–16802 Filed 7–15–09; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[FWS–R1–ES–2008–0084; 14420–1113–0000–C6]**

**RIN 1018–AW16**

## Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To Remove the Utah (Desert) Valvata Snail (Valvata utahensis) From the List of Endangered and Threatened Wildlife and Proposed Rule

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding; proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to remove the Utah (desert) valvata snail (*Valvata utahensis*) from the Federal List of Endangered and Threatened Wildlife (List) pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). Based on a thorough review of the best available scientific and commercial data, the Utah valvata snail is more widespread and occurs in a greater variety of habitats in the Snake River than known at the time of listing in 1992. We now know that the Utah valvata snail is not limited to areas of cold-water springs or spring outflows; rather, it persists in a variety of aquatic habitats, including cold-water springs, spring creeks and tributaries, the mainstem Snake River and associated tributary stream habitats, and reservoirs influenced by dam operations. Given our current understanding of the species' habitat requirements and threats, the species does not meet the definition of a threatened or endangered species under the Act. Therefore, we are proposing to remove the Utah valvata snail from the List, thereby removing all protections provided by the Act.

**DATES:** We will accept comments from all interested parties until September 14, 2009. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by 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: RIN 1018–AW16, Division of Policy and Directives Management; U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments Solicited section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Jeffery L. Foss, State Supervisor, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709 (telephone 208/378–5243; facsimile 208/378–5262). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800/877–8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

### Public Comments Solicited

Our intent is to use the best available commercial and scientific data as the foundation for all endangered and threatened species classification decisions. Comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule to remove the Utah valvata snail from the List are hereby solicited. Comments particularly are sought concerning:

(1) Additional information regarding the range, distribution, and population size of the Utah valvata snail, including the locations of any additional colonies or populations;

(2) Data on any threats (or lack thereof) to the Utah valvata snail;

(3) Current or planned activities in the areas occupied by the Utah valvata snail

and possible impacts of these activities on this species; and

(4) Data on Utah valvata snail population trends.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov*. If you provide personal identifying information in addition to the required items specified in the previous paragraph, such as your street address, phone number, or e-mail address, 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours at the Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; by telephone at 208/378–5243.

## Public Hearing

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received by the date specified in the **DATES** section. Such requests must be made in writing and addressed to the State Supervisor (see **FOR FURTHER INFORMATION CONTACT** section above).

## Species Information

The Utah valvata snail (*Valvata utahensis*) was first recognized as a species in 1902 from specimens in Utah Lake and Bear Lake, Utah (Walker 1902, p. 125). Its common name has since been changed by the American Fisheries Society to the ''desert valvata'' in the benchmark text for aquatic invertebrate nomenclature, *Common and Scientific Names of Aquatic Invertebrates from the United States and Canada* (Turgeon *et al.* 1998, p. 109), presumably due to the fact that it is no longer known to occur in Utah. However, because the species is currently listed in the Code of Federal Regulations as the Utah valvata snail, *Valvata utahensis* will be referred to as the Utah valvata snail throughout this proposed rule.

The Utah valvata snail is univoltine (produces one group of eggs per year) with a lifespan of about 1 year. Reproduction and spawning occur asynchronously between March and October, depending on habitat, with the majority of young spawned between August and October (Cleland 1954, pp. 171–172; U.S. Bureau of Reclamation (USBR) 2003, p. 7). Emergence of a new cohort follows approximately 2 weeks after oviposition (Cleland 1954, p. 170; Dillon 2000, p. 103), and senescent snails (*i.e.*, those approximately 374 days old) die shortly after reproduction (Cleland 1954, pp. 170–171; Lysne and Koetsier 2006a, p. 287).

Lysne and Koetsier (2006a, p. 288) determined the average size of adult Utah valvata snails to be 0.17 inches (4.32 millimeters (mm)). The Utah valvata snail has been observed to produce egg masses which contained 3 to 12 developing snails (Lysne and Koetsier 2006a, p. 288). Egg masses are approximately 0.39 to 0.06 inches (1.0 to 1.5 mm) in diameter, and young snails are approximately 0.03 inches (0.7 mm) in size upon emergence (Lysne and Koetsier 2006a, p. 289). Utah valvata snail young possess a turbinate shell form and an incipient carina (keel-shaped ridge) on the dorsal surface of the shell, which distinguishes them from the morphologically similar *Valvata humeralis.* Based on field and laboratory observations, the Utah valvata snail is primarily a grazer (Lysne and Koetsier 2006a, p. 287; Frest and Johannes 1992, pp. 13–14).

### *Range*

The Utah valvata snail, or at least its closely related ancestors, has been described as ranging widely across the western United States and Canada as far back as the Jurassic Period, 199.6 ± 0.6 to 145.5 ± 4 million years ago (Taylor 1985a, p. 268). Fossils of the Utah valvata snail are known from Utah to California (Taylor 1985a, pp. 286–287). The Utah valvata snail was likely present in the ancestral Snake River as it flowed south from Idaho, through Nevada, and into northeastern California (Taylor 1985a, p. 303). The Snake River escaped to join the Columbia River Basin approximately 2 million years ago (Hershler and Liu 2004, pp. 927–928).

At the time of listing in 1992 (57 FR 59244, December 14, 1992) we reported the range of the Utah valvata snail as existing at a few springs and mainstem Snake River sites in the Hagerman Valley, Idaho (River Mile (RM) 585), a few sites above and below Minidoka Dam (RM 675), and in the American Falls Dam tailwater near Eagle Rock damsite (RM 709). Surveys at the State of Idaho's Thousand Springs Preserve (RM 585) indicated declining numbers of snails, with two colonies at or below 6,000 individuals (57 FR 59245).

New data collected since the time of listing indicate that the range of the species is discontinuously distributed in at least 255 miles (410 kilometers (km)) of the Snake River and some associated tributary streams, an increase of nearly 122 river miles (196 km) from the previously known range. Their current range in the Snake River extends from RM 585 near the Thousand Springs Preserve (Bean 2005), upstream to the confluence of the Henry's Fork with the Snake River (RM 837; Fields 2005, p. 11). Colonies of the Utah valvata snail have been found in the Snake River near the towns of Firth (RM 777.5), Shelley (RM 784.6), Payne (RM 802.6), Roberts (RM 815), and in the Henrys Fork approximately 9.3 miles (15 km) upstream from its confluence with the Snake River (at Snake RM 832.3) (Gustafson 2003). Based on limited mollusk surveys, the species has not been found upstream from the described location on the Henry's Fork or in the South Fork of the Snake River. Tributary streams to the Snake River where Utah valvata snails have been collected include Box Canyon Creek (RM 588) (Taylor 1985b, pp. 9–10), and at one location in the Big Wood River (WRM 35) (USBR 2003, p. 22). Big Wood River observations require further investigation and may be the result of seasonal transport of Utah valvata snails via irrigation canals that connect the Big Wood and Snake Rivers, or passive transport via waterfowl (Miller *et al.* 2006, p. 2371) between large bodies of water (*i.e.,* reservoirs).

### *Habitat Use*

At the time of listing in 1992, the best available data indicated that Utah valvata snails ''characteristically require cold, fastwater, or lotic habitats * * * in deep pools adjacent to rapids or in perennial flowing waters associated with large spring complexes'' (57 FR 59244, December 14, 1992). In numerous field studies conducted since then, the species has been collected at a wide range of depths, ranging from less than 3.2 feet (1 meter) (Stephenson and Bean 2003, pp. 98–99) to depths greater than 45 feet (14 meters) (USBR 2003, p. 20), and at temperatures between 37.4 and 75.2 degrees Fahrenheit (F) (4 to 24 degrees Celsius (C)) (Lysne 2007; Gregg 2006).

Recent work conducted by the Idaho Department of Fish and Game (IDFG) in the upper Snake River demonstrated that Utah valvata snail presence was positively correlated with water depth (up to 18.37 feet (5.6 meters)) and temperature (up to 63 degrees F (17.2

degrees C)) (Fields 2005, pp. 8–9), and Utah valvata snail density was positively correlated with macrophyte (a water plant large enough to be observed with the unaided eye) coverage, water depth, and temperature (Fields 2006, p. 6). Similarly, Hinson (2006, pp. 28–29) analyzed available data from several studies conducted by the USBR (2001–2004), Idaho Power Company (IPC) (1995–2002), IDFG, Idaho Transportation Department (2003–2004) and others, and demonstrated a positive relationship between Utah valvata snail presence and macrophytes, depth, and fine substrates. One study reported Utah valvata snails in organically enriched fine sediments with a heavy macrophyte community, downstream of an aquaculture facility (RM 588) (Hinson 2006, pp. 31–32).

Survey data and information reported since the time of listing demonstrate that the Utah valvata snail is able to live in reservoirs, which were previously thought to be unsuitable for the species (Frest and Johannes 1992, pp. 13–14; USBR 2002, pp. 8–9; Fields 2005, p. 16; Hinson 2006, pp. 23–33). We now know the Utah valvata snail persists in a variety of aquatic habitats, including cold-water springs, spring creeks and tributaries, the mainstem Snake River and associated tributary stream habitats, and reservoirs.

Alterations of the Snake River, including the construction of dams and reservoir habitats, have changed fluvial processes resulting in the reduced likelihood of naturally high river flows or rapid changes in flows, and the retention of fine sediments (U.S. Environmental Protection Agency (USEPA) 2002, pp. 4.30–4.31), which may also increase potential habitat for the species (*e.g.,* Lake Walcott and American Falls Reservoirs). Utah valvata snail surveys conducted downstream from American Falls Dam (RM 714.1) to Minidoka Dam (RM 674.5), from 1997 and 2001–2007, consistently found Utah valvata snails on fine sediments within this 39-mile (62.9 km) river/reservoir reach of the Snake River (USBR 1997, p. 4; USBR 2003, p. 8; USBR 2004, p. 5; USBR 2005, p. 6; USBR 2007, pp. 9–11; USFWS 2005, p. 119). Surveys conducted downstream of Minidoka Dam (RM 674.5) to Lower Salmon Falls Dam (RM 573.0) have detected Utah valvata snails, including one record from the tailrace area of Minidoka Dam in 2001 (USFWS 2005, p. 120).

In summary, based on available information, the Utah valvata snail is not as specialized in its habitat needs as we thought at the time of listing. In the Snake River, the species inhabits a diversity of aquatic habitats throughout its 255-mile (410 km) range, including cold-water springs, spring creeks and tributaries, mainstem and free-flowing waters, reservoirs, and impounded reaches. The species occurs on a variety of substrate types including both fine sediments and more coarse substrates in areas both with and without macrophytes. It has been collected at water depths ranging from less than 3.2 feet (1 meter) to greater than 45 feet (14 meters), and at water temperatures ranging from 37.4 to 75.2 degrees F (3 to 24 degrees C).

*Population Density*

The density of Utah valvata snails at occupied sites can vary greatly. For example, at one cold-water spring site at the Thousand Springs Preserve, the average density in 2003 was 197 snails/square meter ($m^2$) (ranging between 0 and 1,724 snails/$m^2$) (Stephenson *et al.* 2004, p. 23). In the mainstem Snake River between American Falls Reservoir and Minidoka Dam in 2002, Utah valvata snail densities averaged 91 snails/$m^2$ (ranging from 0 to 1,188 snails per $m^2$), and in American Falls Reservoir densities averaged 50 snails/$m^2$ (range unavailable) (USBR 2003, p. 20). Above American Falls Reservoir in the mainstem Snake River, Utah valvata snail densities at six sites averaged 117 snails/$m^2$ (ranging from 0 to 1,716 snails/$m^2$) (Fields 2006, pp. 12–13).

Within reservoirs, the proportional occurrence of snails is relatively high. For all field studies and surveys, the highest proportions of samples where Utah valvata snails are present have been collected in lower Lake Walcott Reservoir (USBR 2002, p. 5; USBR 2003, p. 6). For sample years 2001 to 2006, the relative proportion of samples containing Utah valvata snails ranged from 40 (in 2004) to 62 (in 2002) percent of samples collected. Similarly, American Falls reservoir samples contain a high proportion of Utah valvata snails with 21 (in 2001) to 33 (in 2003) percent in collections between 2002 through 2004. Such high proportional occurrence in reservoirs is additional evidence that Utah valvata snails are not restricted to cold-water springs or their outflows.

**Previous Federal Actions**

We listed the Utah valvata snail as endangered on December 14, 1992 (57 FR 59244). Based on the best available data at that time we determined that the Utah valvata snail was threatened by: Proposed construction of new hydropower dams, the operation of existing hydropower dams, degraded water quality, water diversions, the introduced New Zealand mudsnail (*Potamopyrgus antipodarum*), and the lack of existing regulatory protections (57 FR 59244). In 1995, we published the Snake River Aquatic Species Recovery Plan (Plan), which included the Utah valvata snail. Critical habitat has not been designated for this species.

On April 11, 2006, we initiated a 5-year review for the species in accordance with section 4(c)(2) of the Act (71 FR 18345). On December 26, 2006, the Service received a petition from the Governor of Idaho and attorneys from several irrigation districts and canal districts requesting that the Utah valvata snail be removed from the List. On June 6, 2007, the Service published a **Federal Register** notice announcing that the petition presented substantial scientific information indicating that removing the Utah valvata snail from the List may be warranted, and the initiation of a 12-month status review of the species, to be conducted concurrent with our 5-year review (72 FR 31264). As part of our best available scientific and commercial data analysis, we conducted a 30-day peer review on a draft status-review document, which was completed in September 2007 (USFWS 2007). The Summary of Factors Affecting the Species section below represents the best available scientific and commercial data resulting from our analysis and applicable updates from the previous peer review process.

**Summary of Factors Affecting the Species**

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal List of Endangered and Threatened Wildlife. Changes in the List can be initiated by the Service or through the public petition process. Section 4 (b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition containing substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of receiving the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but that immediate proposal of a regulation implementing the petitioned action is precluded by pending proposals to determine whether other species are threatened or endangered.

Under section (4) of the Act, a species may be determined to be endangered or threatened on the basis of any of the following five factors: (A) 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) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; and/or (3) the original scientific data used at the time the species was classified were in error.

A species is ''endangered'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. The word ''range'' in the significant portion of its range (SPR) phrase refers to the range in which the species currently exists. The word ''significant'' in the SPR phrase refers to the value of that portion to the conservation of the species.

*Factor A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range*

Construction of New Hydropower Dams

In our 1992 final rule listing the Utah valvata as an endangered species, we stated: ''Six proposed hydroelectric projects, including two high dam facilities, would alter free-flowing river reaches within the existing range of [the Utah valvata snail]. Dam construction threatens the [Utah valvata snail] through direct habitat modification and moderates the Snake River's ability to assimilate point and non-point pollution. Further hydroelectric development along the Snake River would inundate existing mollusk habitats through impoundment, reduce critical shallow, littoral shoreline habitats in tailwater areas due to operating water fluctuations, elevate water temperatures, reduce dissolved oxygen levels in impounded sediments, and further fragment remaining mainstem populations or colonies of these snails'' (57 FR 59251).

Since the time of listing, proposed hydroelectric projects discussed in the 1992 final rule are no longer moving forward. The A.J. Wiley project and Dike Hydro Partners preliminary permits have lapsed; the Kanaka Rapids, Empire Rapids, and Boulder Rapids permits were denied by the Federal Energy Regulatory Commission (FERC) in 1995; there was a notice of surrender of the preliminary permit for the River Side Project in 2002; and two other proposed projects, the Eagle Rock and Star Falls Hydroelectric Projects were denied preliminary permits by the FERC. In 2003, a notice was provided of surrender of preliminary permit for the Auger Falls Project. Information provided by the State of Idaho indicates that all proposals and preliminary permits for the construction of new dams along the mid-Snake River have either lapsed or been denied by the FERC (Caswell 2006). Additionally, recent studies have shown that the Utah valvata snail is not as limited in its habitat needs as we had thought at the time of listing (see Species Information section above).

Operation of Existing Hydropower Dams

In the 1992 final rule, we discussed peak-loading, the practice of artificially raising and lowering river levels to meet short-term electrical needs by local run-of-the-river hydroelectric projects, as a threat to the Utah valvata snail. Peak-loading was described as ''a frequent and sporadic practice that results in dewatering mollusk habitats in shallow, littoral shoreline areas'' (57 FR 59252). Studies conducted since the time of listing have shown the Utah valvata snail is able to persist in reservoirs, contrary to our understanding of the species at the time of listing (USFWS 2005, p. 105; 57 FR 59244, 59245). For example, Lake Walcott (RM 702.5 to 673.5; upstream of Minidoka Dam) appears to contain the largest population of Utah valvata snails in the Snake River system (USFWS 2005, pp. 111–112). This is likely due to relatively good water quality in the reservoir compared to downstream sections of the Snake River near Hagerman where water quality is influenced by agricultural, municipal, and aquaculture flows into the river. In lower Lake Walcott, there is a large area of suitable Utah valvata snail habitat that remains submerged despite annual drawdowns (the reservoir fluctuates by no more than 5 feet (1.5 meters) annually, thereby limiting the number of snails affected by dewatering and desiccation). Further, surveys conducted in the mainstem Snake River in 1997, 1998, and 2001, from American Falls Dam (RM 714.1) to Lake Walcott (RM 702.5) indicate a fairly large and viable population of Utah valvata snails even though shoreline habitats in this stretch undergo annual dewatering (USFWS 2005, p. 119). In American Falls reservoir, dam operations and fluctuating flows have been estimated to kill between 5 and 40 percent of the Utah valvata snails in most years. Nevertheless, Utah valvata snails continue to persist in these reservoirs with relatively high proportional occurrence (USFWS 2005, p. 119).

Degraded Water Quality

In the final listing rule, we stated: ''The quality of water in [snail] habitats has a direct effect on the species [*sic*] survival. The [Utah valvata snail] require[s] cold, well-oxygenated unpolluted water for survival. Any factor that leads to deterioration in water quality would likely extirpate [the Utah valvata snail]'' (57 FR 59252). As described above in the Species Information section, our understanding of the species' habitat requirements has changed substantially since 1992. Furthermore, new information has become available indicating both (a) improvements to Snake River water quality, and (b) the ability of Utah valvata snail to inhabit and persist in reaches of the Snake River rich in nutrients (*e.g.,* nitrogen and phosphorus).

Factors that are known to degrade water quality in the Snake River include reduced water flow, warming due to impoundments, and increases in the concentration of nutrients, sediment, and pollutants reaching the river from agricultural and aquaculture inputs (USFWS 2005, p. 106). Several water-quality assessments have been completed for the Snake River by the USEPA, USBR, U.S. Geological Survey (USGS), and IPC. All of these assessments generally demonstrate that water quality in the Snake River of southern Idaho meets Idaho's water-quality criteria for the protection of aquatic life for some months of the year, but may be poor in reservoirs or during summer high temperatures and low flows, based on water-quality criteria such as dissolved oxygen (Clark *et al.* 1998, pp. 20–21, 24–27; Clark *et al.* 2004, pp. 38–40; Clark and Ott 1996, p. 553; Clark 1997, pp. 1–2, 19; Meitl 2002, p. 33).

Several reaches of the Snake River are classified as water-quality-impaired due to the presence of one or more pollutants (*e.g.,* Total Phosphorus (TP), sediments, total coliforms) in excess of State or Federal guidelines. Nutrient-enriched waters primarily enter the Snake River via springs, tributaries, fish-farm effluents, municipal waste-treatment facilities, and irrigation returns (USEPA 2002, pp. 4–18 to 4–24). Irrigation water returned to rivers is

generally warmer, contains pesticides or pesticide byproducts, has been enriched with nutrients from agriculture (*e.g.,* nitrogen and phosphorous), and frequently contains elevated sediment loads. Pollutants in fish-farm effluent include nutrients derived from metabolic wastes of the fish and unconsumed fish food, disinfectants, bacteria, and residual quantities of drugs used to control disease outbreaks. Elevated levels of fine sediments, nitrogen, and trace elements (including cadmium, chromium, copper, lead, and zinc) have been measured immediately downstream of several aquaculture discharges (Hinson 2003, pp. 42–45). Additionally, concentrations of lead, cadmium, and arsenic have been detected in snails collected from the Snake River (Richards 2003). Studies have shown another native Snake River snail, the Jackson Lake springsnail (*Pyrgulopsis robusta*), to be relatively sensitive to copper (a common component in algaecides) and pentachlorophenol, a restricted use pesticide/wood preservative (Ingersoll 2006).

The effects of pollutants detected in the Snake River (*e.g.,* metals, pesticides, excess nutrients) on the growth, reproduction, and survival of the Utah valvata snail have not been evaluated. However, the evidence available to us (including several intensive survey efforts) does not indicate that the population is declining or that the range of the species is contracting. Furthermore, the Utah valvata snail has been documented to occur in low-oxygen, organically-enriched sediments with heavy macrophyte communities downstream of an aquaculture facility (RM 588) (Hinson 2003, p. 17), indicating that the species may not be as sensitive to these pollutants as we once suspected. Based on the current best available information, we are not aware that water quality in the Snake River limits growth, reproduction, or survival of the Utah valvata snail in any portion of its range.

There have been substantial declines in total dissolved solids (TSS) primarily as a result of changing irrigation practices. There have also been substantial declines in TP from changing agricultural practices and changing aquaculture feeds in the middle Snake River downstream of Lake Walcott. Data collected by the Idaho Department of Environmental Quality (IDEQ) show decreases of TSS near 64 percent compared to 1990 levels, and decreases of TP near 33 percent compared to 1990 levels (Buhidar 2006). The specific water-quality parameters required for the survival and persistence of the Utah valvata snails are not known. However, the Utah valvata snail occurs over a relatively large documented range of over 255 river miles (410 km) (USFWS 2005, pp. 110–113) and has the ability to tolerate and persist in a variety of aquatic habitats with some degree of water-quality degradation (Lysne and Koetsier 2006b, pp. 234–237). For example, studies conducted by the USBR in 2003 in Lake Walcott Reservoir indicated the highest Utah valvata snail densities occurred in the lower reservoir, where the sediments had the greatest percentage of organic content (an indicator that oxygen levels are likely low) (Hinson 2006, p. 19).

*Summary of Factor A:* Our understanding of the habitat needs of the Utah valvata snail has changed substantially since the species was listed in 1992. Survey data collected since 1992 indicate that the geographic range of the species in the Snake River is approximately 122 river miles (196 km) larger than known at the time of listing, that it occurs in a variety of substrate types (*e.g.,* fines to cobble size) and flows, and that it tolerates a range of water-quality parameters. Threats pertaining to the construction of new hydropower dams as cited in the 1992 final rule have not been realized as the plans for dam construction have expired or been withdrawn. The operation of existing hydropower dams and reservoirs likely affect the distribution of the Utah valvata snail along the shoreline areas due to fluctuating flows and seasonal dewatering; however, the species appears to persist in these reservoirs with relatively high proportional occurrence. There is no information to suggest that degraded water quality is affecting the species' population numbers or distribution. Evidence indicates that improvements have been made in Snake River water-quality parameters including TSS and TP in some Snake River reaches since listing. Therefore, destruction, modification, or curtailment of the Utah valvata snail's habitat or range is not currently putting the species in danger of extinction, and is not likely to result in the endangerment or extinction of the species in the foreseeable future.

*Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

Based on the best available scientific and commercial data, we believe that overutilization for commercial, recreational, scientific, or educational purposes is not currently putting the Utah valvata snail in danger of extinction, and is not likely to result in the endangerment or extinction of the species in the foreseeable future. There is no known commercial or recreational use of the species and collections for scientific or educational purposes are limited in scope and extent. While collection could result in mortality of individuals within a small area, they are unlikely to have population-level effects because only a few individuals and institutions are interested in collecting the species and the life-history strategy of the species makes populations relatively resilient to limited mortality (*i.e.,* invests little in reproduction, relatively high reproductive output (many eggs laid at a time), early age of reproduction, and short lifespan).

*Factor C. Disease or Predation*

Parasitic trematodes similar to those of the genus *Microphallus* have been identified in some freshwater snails (*e.g., Pyrgulopsis robusta*) that share similar habitats in the Snake River in Idaho (Dybdahl *et al.* 2005, p. 8). However, the occurrence of trematode parasites on Utah valvata has not been studied.

Predators of the Utah valvata snail have not been documented; however, we assume that some predation by native and non-native species occurs. Aquatic snails in general are prey for numerous invertebrates and vertebrates (Dillon 2000, pp. 274–304), and predation on other aquatic snails by crayfish and fish is well documented (Lodge *et al.* 1994, p. 1265; Martin *et al.* 1992, p. 476; Merrick *et al.* 1992, p. 225; Lodge *et al.* 1998, p. 53; McCarthy and Fisher 2000, p. 387).

Based on the best available scientific and commercial data, we believe that the threat of disease or predation is not placing the Utah valvata snail in danger of extinction, and is not likely to result in the endangerment or extinction of the species in the foreseeable future. The life-history strategy of the Utah valvata makes populations relatively resilient to limited mortality due to parasites or disease (*i.e.,* invests little in reproduction, relatively high reproductive output (many eggs laid at a time), early age of reproduction, and short lifespan).

*Factor D. Inadequacy of Existing Regulatory Mechanisms*

In the final listing rule, we found inadequate regulatory mechanisms to be a threat because: (1) Regulations were inadequate to curb further water withdrawal from groundwater spring outflows or tributary spring streams, (2) it was unlikely that pollution-control regulations would reverse the trend in nutrient loading any time soon, (3) there

was a lack of State-mandated protections for invertebrate species in Idaho, and (4) regulations did not require FERC or the U.S. Army Corps of Engineers to address Service concerns regarding licensing hydroelectric projects or permitting projects under the Clean Water Act for unlisted snails. Below, we address each of these concerns in turn.

Groundwater Withdrawal Regulations

Since 1992, new information has become available clarifying the habitat requirements of the Utah valvata snail. The species is not limited to cool, fast-water, or lotic habitats, or perennial flowing waters associated with large spring complexes, as previously believed. The species is able to live in a variety of aquatic habitats, and is locally abundant throughout a 255-mile (410 km) stretch of the Snake River in tributary streams, mainstem Snake River, and in reservoirs that are managed for annual drawdowns.

The Idaho Department of Water Resources (IDWR) manages water in the State of Idaho. Among the IDWR's responsibilities is the development of the State Water Plan (IDWR 2006a). The State Water Plan was updated in 1996 and included a table of federally threatened and endangered species in Idaho, such as the Utah valvata snail. The State Water Plan outlines objectives for the conservation, development, management, and optimum use of all unappropriated waters in the State. One of these objectives is to ''maintain, and where possible enhance water quality and water-related habitats'' (IDWR 2006a). It is the intent of the State Water Plan that any water savings realized by conservation or improved efficiencies is appropriated to other beneficial uses (*e.g.,* fish and wildlife, hydropower, or agriculture). Another IDWR regulatory mechanism is the ability of the Idaho Water Resource Board to appropriate water for minimum stream flows when in the public interest (IDWR 2006b).

Since 1992, the IDWR and other State agencies have also created additional regulatory mechanisms that limit future surface and groundwater development, including the continuation of various moratoria on new consumptive water rights and the designation of Water Management Districts (Caswell 2007). The State is working with numerous interested parties to stabilize aquifer levels and enhance cold-water-spring outflows from the Eastern Snake River Plains. The recently proposed Comprehensive Aquifer Management Plan (CAMP) for the Eastern Snake River Plains area identifies water conservation measures to be implemented (Barker *et al.* 2007). The goal of the CAMP is to ''sustain the economic viability and social and environmental health of the Eastern Snake Plain by adaptively managing a balance between water use and supplies.'' The CAMP will include several alternatives in an attempt to increase water supply, reduce withdrawals from the aquifer, and decrease overall demand for groundwater (Barker *et al.* 2007).

In addition, the State of Idaho established moratoria in 1993 (the year after listing) that restricted further surface-water and groundwater withdrawals for consumptive uses from the Snake River Plain aquifer between American Falls Reservoir and C.J. Strike Reservoir. The 1993 moratoria were extended by Executive Order in 2004 (Caswell 2006, attachment 1). However, these actions have not yet resulted in stabilization of aquifer levels. Depletion of spring flows and declining groundwater levels are a collective effect of drought conditions, changes in irrigation practices (the use of central-pivot sprinklers contribute little to groundwater recharge), and groundwater pumping (University of Idaho 2007). The effects of groundwater pumping downstream in the aquifer can affect the upper reaches of the aquifer, and the effects of groundwater pumping can continue for decades after pumping ceases (University of Idaho 2007).

Thus, we anticipate groundwater levels will likely continue to decline in the near future, even as water-conservation measures are implemented, and are being developed. Nevertheless, the extinction or endangerment of the Utah valvata snail is unlikely given its ability to survive and persist in a wide variety of aquatic habitats not dependent upon groundwater outflows.

Pollution Control Regulations

Since 1992, reductions in sediment (TSS) and phosphorus (TP) loading have improved water quality in localized reaches of the Snake River (Buhidar 2005) (see Factor A above). Various State-managed water-quality programs are being implemented within the range of the Utah valvata snail. These programs are tiered off of the Clean Water Act (CWA), which requires States to establish water-quality standards that provide for (1) the protection and propagation of fish, shellfish, and wildlife, and (2) recreation in and on the water. As required by the CWA, Idaho has established water-quality standards (*e.g.,* for water temperature and dissolved oxygen) for the protection of cold-water biota (*e.g.,* invertebrate species) in many reaches of the Snake River. The CWA also specifies that States must include an antidegradation policy in their water quality regulations that protects water-body uses and high-quality waters. Idaho's antidegradation policy, updated in the State's 1993 triennial review, is detailed in their Water Quality Standards (IDEQ 2009).

The IDEQ works closely with the USEPA to manage point and non-point sources of pollution to water bodies of the State through the National Pollutant Discharge Elimination System (NPDES) program under the CWA. IDEQ has not been granted authority by the USEPA to issue NPDES permits directly, all NPDES permits are issued by the USEPA Region 10 (USEPA 2009). These NPDES permits are written to meet all applicable water-quality standards established for a water body to protect human health and aquatic life. Waters that do not meet water-quality standards due to point and non-point sources of pollution are listed on EPA's 303(d) list of impaired water bodies. States must submit to EPA a 303(d) list (water-quality-limited waters) and a 305(b) report (status of the State's waters) every two years. IDEQ, under authority of the State Nutrient Management Act, is coordinating efforts to identify and quantify contributing sources of pollutants (including nutrient and sediment loading) to the Snake River basin via the Total Maximum Daily Load (TMDL) approach. In water bodies that are currently not meeting water-quality standards, the TMDL approach applies pollution-control strategies through several of the following programs: State Agricultural Water Quality Program, Clean Water Act section 401 Certification, BLM Resource Management plans, the State Water Plan, and local ordinances. Several TMDLs have been approved by the EPA in stream segments within the range of the Utah valvata snail in the Snake River or its tributaries (Buhidar 2006), although most apply only to TSS, TP, or temperature.

State Invertebrate Species Regulations

There are no State regulatory protections for the Utah valvata snail in Idaho. The primary threats to the species, as identified in our listing rule, were related to the loss or alteration of habitat. The lack of specific regulations protecting individual Utah valvata snails does not, by itself, imply that the species is threatened or endangered.

Federal Consultation Regulations

The discussion regarding the lack of a Federal regulatory mechanism in the 1992 listing rule was primarily related

to the proposed construction of six dams within the range of the species coupled with our belief at the time of listing that the species required cold, fast-water, or lotic habitats. As stated above, dams are no longer being proposed for construction and our understanding of Utah valvata snail habitat requirements has changed. Thus, the importance of a regulatory mechanism to address these threats is no longer a significant issue with regard to the conservation of the Utah valvata snail.

*Summary of Factor D:* Although there are no specific State regulations protecting the Utah valvata snail, the primary threats identified in the final listing rule were related to the loss or alteration of the species' habitat. Furthermore, as our understanding of the species' habitat requirements has changed, so has our understanding of the species' conservation and regulatory needs. Regulatory mechanisms such as Idaho's water-quality standards and TMDLs will continue to apply to habitats that the Utah valvata snails occupy should we finalize this delisting proposal. Therefore, the inadequacy of existing regulatory mechanisms does not presently endanger the Utah valvata snail, nor is it likely to do so in the foreseeable future.

*Factor E. Other Natural or Manmade Factors Affecting the Species' Continued Existence*

The final listing rule stated that New Zealand mudsnails were not yet abundant in cold-water spring flows with colonies of the Utah valvata snail, but that they likely did compete with the species in the mainstem Snake River habitats (57 FR 59254). Surveys have found that Utah valvata snails and New Zealand mudsnails frequently co-occur in cold-water spring, mainstem Snake River, and reservoir habitats (37 percent co-occurrence in combined habitat types), which may indicate that these two species are able to co-exist or that they actually have slightly different resource preferences (*e.g.,* periphytic vs. perilithic algae) (Hinson 2006, p. 42). However, Hinson (2006, p. 41) also notes that the overlap in habitat utilization between the Utah valvata snail and the New Zealand mudsnail could lead to direct competition for resources between these two species.

The USBR reported that New Zealand mudsnails are increasing in Lake Walcott, yet the densities observed were substantially lower than those observed in mainstem Snake River habitats downstream (USBR 2003, p. 19, USBR 2005, p. 6). Further upstream, the distribution of New Zealand mudsnails currently appears to be limited to the upper end of American Falls Reservoir near the input of the Snake and Portneuf rivers (USBR 2003, p. 21). Surveys conducted even further upstream in the Snake River and tributaries (Field 2004, 2005, pp. 8–12) found moderate-to-high densities of the New Zealand mudsnail at five sites. However, Field (2005, p. 10) stated that the current distribution of New Zealand mudsnails in the Snake River above American Falls Reservoir could more strongly reflect patterns of introductions rather than habitat preferences. Populations of the New Zealand mudsnail are not known to occur in the Wood River.

*Summary of Factor E:* The New Zealand mudsnail frequently co-occurs with the Utah valvata snail and may be competing for habitat or food. The New Zealand mudsnail can reach extremely high densities in the middle Snake River (Richards *et al.* 2001, p. 375), and has been recorded at moderate-to-high densities at five sites in tributaries to the Snake River and the Snake River above American Falls Reservoir. Populations of the New Zealand mudsnail are not known to occur in the Wood River. The overall impact on the Utah valvata snail from the invasion of the New Zealand mudsnail is unknown (Lysne 2003, pp. 85–86; Hinson 2006, p. 41). However, after approximately 20 years of co-occurrence there is no evidence suggesting that the New Zealand mudsnail has caused local extirpations of the Utah valvata snail. Although this does not rule out potential future effects to the Utah valvata snail's distribution or abundance, the current evidence does not support the conclusion that the New Zealand mudsnail presently endangers the Utah valvata snail, nor that it is likely to do so in the foreseeable future.

**Foreseeable Future**

For the purposes of this proposed rule, the ''foreseeable future'' is the period of time over which events or effects reasonably can or should be anticipated, or trends reasonably extrapolated, such that reliable predictions can be made concerning the status of the species. As discussed above in the Summary of Factors section, we determined that the primary threats that were identified at the time the Utah valvata snail was listed in 1992 (construction of new, and operation of existing, hydropower dams; water quality and quantity; inadequacy of regulatory mechanisms; and the introduction of a new invasive snail (*i.e.,* the New Zealand mudsnail)) no longer exist (*e.g.,* new dams), have improved (*e.g.,* water quality), or have not been as severe as expected (*e.g.,* the New Zealand mudsnail). All indications, based on our improved understanding of the Utah valvata snail's range, habitat requirements, and ecology, suggest that the Utah valvata snail is more widely distributed and occurs in a variety of ecological settings over a 255-mile (410 km) range of the Snake River. Much of the Snake River within the range of the Utah valvata is influenced by seasonal dam operations for hydroelectric or agricultural purposes, yet the species persists in these varied mainstem Snake River systems, including impounded reservoir habitats (*e.g.,* Lake Walcott and American Falls reservoirs). In short, given the available information, we can not reasonably predict or anticipate that threats to the Utah valvata snail will increase in severity in the future such that they would lead the species to become threatened or endangered throughout all or a significant portion of its range.

**Conclusion of the Rangewide 5-Factor Analysis**

As required by the Act, we considered the five potential threat factors to assess whether the Utah valvata snail is threatened or endangered throughout its range (our analysis of whether there are significant portions of the species' range that are threatened or endangered follows this section). Information collected since the species' listing in 1992 indicates that the Utah valvata snail is widely distributed and occurs in a variety of ecological settings over a 255-mile range of the Snake River. Much of the Snake River within the range of the Utah valvata is influenced by seasonal dam operations for hydroelectric or agricultural purposes, yet the species persists in these varied mainstem Snake River systems, including impounded reservoir habitats (*e.g.,* Lake Walcott and American Falls reservoirs). None of the threats that we identified in the 1992 listing appear to be significant to the species in light of our current understanding of its status. Nor have we identified any other threats to the species. Therefore, we find that the Utah valvata snail is not in danger of extinction throughout its range, nor is it likely to become so in the foreseeable future.

The Service has determined that the original data for classification of the Utah valvata snail used in 1992 were in error. However, it is important to note that the original data for classification constituted the best available scientific and commercial data available at the time and were in error only in the sense that they were incomplete. The primary considerations for proposing to delist

the Utah valvata snail are described in the five-factor analysis above.

**Significant Portion of the Range Analysis**

Having determined that the Utah valvata snail does not meet the definition of a threatened or endangered species throughout its range, we must next consider whether there are any significant portions of its range where it is in danger of extinction or is likely to become endangered in the foreseeable future. On March 16, 2007, a formal opinion was issued by the Solicitor of the Department of the Interior, ''The Meaning of 'In Danger of Extinction Throughout All or a Significant Portion of Its Range' '' (U.S. DOI 2007). We have summarized our interpretation of that opinion and the underlying statutory language below. A portion of a species' range is significant if it is part of the current range of the species and is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species.

The first step in determining whether a species is threatened or endangered in a significant portion of its range is to identify any portions of the range of the species that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and threatened or endangered. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (i) the portions may be significant and (ii) the species may be in danger of extinction there or likely to become so within the foreseeable future. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the range that are unimportant to the conservation of the species, such portions will not warrant further consideration.

If we identify any portions of a species' range that warrant further consideration, we then determine whether in fact the species is threatened or endangered in any significant portion of its range. Depending on the biology of the species, its range, and the threats it faces, it may be more efficient in some cases for the Service to address the significance question first, and in others the status question first. Thus, if the Service determines that a portion of the range is not significant, the Service need not determine whether the species is threatened or endangered there; conversely, if the Service determines that the species is not threatened or endangered in a portion of its range, the Service need not determine if that portion is significant.

The terms ''resiliency,'' ''redundancy,'' and ''representation'' are intended to be indicators of the conservation value of portions of the species' range. Resiliency of a species allows the species to recover from periodic disturbance. A species will likely be more resilient if large populations exist in high-quality habitat that is distributed throughout the range of the species in such a way as to capture the environmental variability within the range of the species. It is likely that the larger size of a population will help contribute to the viability of the species. Thus, a portion of the range of a species may make a meaningful contribution to the resiliency of the species if the area is relatively large and contains particularly high-quality habitat or if its location or characteristics make it less susceptible to certain threats than other portions of the range. When evaluating whether or how a portion of the range contributes to resiliency of the species, it may help to evaluate the historical value of the portion and how frequently the portion is used by the species. In addition, the portion may contribute to resiliency for other reasons—for instance, it may contain an important concentration of certain types of habitat that are necessary for the species to carry out its life-history functions, such as breeding, feeding, migration, dispersal, or wintering.

Redundancy of populations may be needed to provide a margin of safety for the species to withstand catastrophic events. This does not mean that any portion that provides redundancy is a significant portion of the range of a species. The idea is to conserve enough areas of the range such that random perturbations in the system act on only a few populations. Therefore, each area must be examined based on whether that area provides an increment of redundancy that is important to the conservation of the species.

Adequate representation insures that the species' adaptive capabilities are conserved. Specifically, the portion should be evaluated to see how it contributes to the genetic diversity of the species. The loss of genetically based diversity may substantially reduce the ability of the species to respond and adapt to future environmental changes. A peripheral population may contribute meaningfully to representation if there is evidence that it provides genetic diversity due to its location on the margin of the species' habitat requirements.

Applying the process described above we evaluated a recent genetic study of the Utah valvata snail (Miller *et al.* 2006) and the ecological settings in which the species occurs throughout its range. We divided the range into three population units for further analysis: The Wood River population unit, the Snake River population unit, and the Hagerman population unit. Both the Wood River and Hagerman populations are separated geographically, and in the case of the Hagerman population, genetically and ecologically. Geographically, the Upper Snake and Henry's Fork Rivers and reservoirs of the Snake River are proximal and have a greater potential for connectivity of the Utah valvata snail populations in these reaches. They were analyzed as one unit: the Snake River population unit. We then evaluated whether each unit constitutes a significant portion of the range of the species, and if so, whether that portion was threatened or endangered.

*Wood River Population Unit*

There is a high degree of uncertainty concerning the distribution and abundance of the species in the Wood River since there has been only one documented colony and systematic surveys have not been conducted. Based on the limited information we have on the Utah valvata snail in the Wood River, this colony does not appear to exist in an unusual or unique ecological setting or contain a large portion of the habitat or individuals (in fact, it appears to constitute an extremely small portion of the overall habitat and number of individuals). Further, recent genetic work conducted by Miller *et al.* (2006, pp. 2367–2372) found that the Wood River occurrence is not genetically divergent or unique from the Snake River population unit. Because of genetic similarities between Utah valvata snails in the Snake River and Wood River units, the Wood River unit could provide some redundancy to the species if the Snake River unit (see below for further information) is extirpated by a catastrophic event. However, given that Utah valvata are distributed discontinuously along 255 miles (410 km) of the Snake River unit, a catastrophic event of the magnitude

necessary to simultaneously eliminate all Utah valvata colonies from the Snake River unite is highly unlikely. In addition, due to the geographic separation of the Wood River unit from the Snake River unit, it is unlikely that the Wood River unit would be a significant source of snails to recolonize the Snake River. Therefore, given these factors, we determined the Wood River population unit did not provide a significant contribution to the species with regard to redundancy, resiliency, and representation, and was not evaluated further.

*Snake River Population Unit*

The Snake River population unit contains the largest and widest ranging portion of the overall Utah valvata snail population and contributes substantially to the resiliency, representation, and redundancy of the species. As mentioned above, the Snake River population was analyzed as one unit because the Upper Snake and Henry's Fork Rivers and reservoirs of the Snake River are proximal and have a greater potential for connectivity of the Utah valvata populations in these reaches. Other information contributing to its significance includes: (1) Additional surveys in this unit would likely find more colonies of Utah valvata snail, since most surveys conducted since 1992 have been project based and systematic surveys have not yet occurred throughout much of this reach; (2) the uppermost reaches of the Snake River unit, including the Henry's Fork River where Utah valvata snail occurs, is not influenced by dam and other water management operations, and water quality is considered to be better than that found in the Wood River or Hagerman reaches further downstream in the Snake River; (3) Lower Lake Walcott Reservoir has high densities and high proportional occurrence of the Utah valvata snail and likely provides refugia for the species primarily due to the human-induced stability of this reservoir environment; and (4) genetically, the Snake River population unit represents the ancestral haplotypes of this species (Miller *et al.* 2006, p. 2368).

For all of these reasons, we determined that the Snake River population unit of the Utah valvata snail constitutes a significant portion of the species' range. The Snake River population unit was then evaluated to determine if the Utah valvata snail is threatened or endangered in this portion of its range. This unit covers a wide geographic range and provides a wide variety of suitable habitats for Utah valvata snail in both reservoir and riverine reaches. This unit likely contains the largest number of individuals and colonies of the Utah valvata snail and would likely sustain the species into the foreseeable future independent of the other population units.

Water quality is relatively good in the upstream (Henry's Fork) reaches of this unit compared to other population units, and the New Zealand mudsnail has not become established throughout this unit. Therefore, in the context of new information regarding the species' habitat and ecology, we likewise conclude that the Snake River population unit of Utah valvata snail is not threatened or endangered.

*Hagerman Population Unit*

The best available data indicate that the Hagerman population unit is likely isolated and separated geographically from other Utah valvata snail colonies further upstream that constitute the Snake River population unit, but overall represents a small area of occupancy compared to the rest of the range of the species. The geographic isolation of the Hagerman population unit is an important consideration; the Miller *et al.* (2006) genetics paper suggests that Utah valvata snails found in cold-water spring outflows at the Thousand Springs Preserve may have been genetically isolated for over 10,000 years and should be evaluated to determine if they can reproduce with other Utah valvata snails elsewhere in their range. This population unit also has a unique ecological setting compared to the other two units, as the species mainly occurs in tributary springs (and at their cold-water outflows), and not in reservoir or riverine habitats.

In light of the above, we concluded that the Hagerman population unit may constitute a significant portion of the range of the Utah valvata snail. To determine if the Utah valvata snail is either threatened or endangered in this portion of the range, we evaluated the threat factors of water quality and effects, current hydropower operations, and the New Zealand mudsnail, and potential for other invasive species effects in the future.

Currently, water quality is not considered to be a threat that is of high severity or magnitude to the Hagerman population unit for the reasons outlined in Factor A of the rangewide analysis. Furthermore, two cold-water spring outflows, Box Canyon and Thousand Springs, provide a relatively high-quality and stable aquatic environment for some Utah valvata snail colonies. Although flows have recently declined in some cold-water springs due to groundwater withdrawals, and water quantity and quantity could decrease over time if flows are not preserved, the Utah valvata snail would continue to persist in the mainstem Snake River in the Hagerman reach where it can tolerate variable water temperatures and water quality. Although there is evidence of some density-dependent effects and competition where the New Zealand mudsnail co-occurs with the Utah valvata snail, the Utah valvata snail continues to persist in these habitats. Despite approximately 20 years of co-occurrence of the New Zealand mudsnail and Utah valvata snail, there is no evidence suggesting that the New Zealand mudsnail has caused local extirpations of the Utah valvata snail in Hagerman reach. Therefore, we conclude that the Hagerman population unit of the Utah valvata snail is not threatened or endangered in this portion of its range.

In summary, our understanding of the Utah valvata snail's habitat requirements, range, and threats has changed since the time of listing. From studies conducted since 1992, we now know that the species occurs over a much larger geographic range in the Snake River and is able to live in a variety of aquatic habitats and is not limited to cold, fast-water, or lotic habitats, or in perennial flowing waters associated with large spring complexes as previously believed. In addition, the proposed construction of six new hydropower facilities as discussed at the time of listing is no longer a threat. The Utah valvata snail is now known to occur in, and persist in, aquatic habitats influenced by dam operations (*e.g.,* reservoirs, and at elevated water temperatures), and the species co-exists in a variety of Snake River aquatic habitats with the invasive New Zealand mudsnail. We have determined that none of the existing or potential threats, either alone or in combination with others, are likely to cause the Utah valvata snail to become in danger of extinction within the foreseeable future throughout all or any significant portion of its range. The Utah valvata snail no longer requires the protection of the Act, and, therefore, we are proposing to remove it from the Federal List of Endangered and Threatened Wildlife.

**Effects of This Rule**

If made final, this rule would revise 50 CFR 17.11(h) to remove the Utah valvata snail from the Federal List of Endangered and Threatened Wildlife. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to this species.

Federal agencies would no longer be required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the Utah valvata snail. There is no critical habitat designated for this species.

**Peer Review**

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our proposed rule is based on scientifically sound data, assumptions, and analyses. We will send peer reviewers copies of this proposed rule immediately following publication in the **Federal Register** and will invite them to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposal to delist the Utah valvata snail. We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

**Public Hearings**

Section 4(b)(5)(D) of the Act requires that we hold one public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register** (see **DATES**). Such requests must be made in writing and be addressed to the State Supervisor at the address in the **FOR FURTHER INFORMATION CONTACT** section above.

**Clarity of This Proposed Rule**

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

**Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)**

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**National Environmental Policy Act**

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

**References Cited**

A complete list of all references cited herein is available upon request from the Idaho Fish and Wildlife Office (see **ADDRESSES**).

**Author**

The primary author of this document is the Idaho Fish and Wildlife Office (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

**Proposed Regulation Promulgation**

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—[AMENDED]

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

**§ 17.11 [Amended]**

2. Section 17.11(h) is amended by removing the entry for ''Snail, Utah valvata'' under ''SNAILS'' from the List of Endangered and Threatened Wildlife.

Dated: July 7, 2009.

**James J. Slack,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. E9–16837 Filed 7–15–09; 8:45 am]

BILLING CODE 4310–55–P

# Notices

Federal Register
Vol. 74, No. 135
Thursday, July 16, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Pohick Creek Watershed Dam No. 2, Fairfax County, VA

**AGENCY:** Natural Resources Conservation Service.

**ACTION:** Notice of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to Section 102[2][c] of the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations [40 CFR part 1500]; and the Natural Resources Conservation Service Regulations [7 CFR part 650]; the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of Pohick Creek Watershed Dam No. 2, Fairfax County, Virginia.

**FOR FURTHER INFORMATION CONTACT:** W. Ray Dorsett, Acting State Conservationist, Natural Resources Conservation Service, 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229. Telephone (804) 287–1691, E–Mail *Ray.Dorsett@va.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, W. Ray Dorsett, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is continued flood prevention. The planned works of improvement include upgrading an existing floodwater retarding structure.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the U.S. Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting W. Ray Dorsett at the above number.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

**W. Ray Dorsett,**

*Acting State Conservationist.*

[This activity is listed in the Catalog of Federal Domestic Assistance under 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires inter-government consultation with State and local officials].

[FR Doc. E9–16897 Filed 7–15–09; 8:45 am]

BILLING CODE 3410–16–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Allegheny National Forest, PA: Willow Creek All-Terrain Vehicle (ATV) Trail Expansion Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Withdrawal of a Notice of Intent to prepare an Environmental Impact Statement.

**SUMMARY:** The Allegheny National Forest, Bradford Ranger District is issuing this notice to advise the public that the agency intends to withdraw their Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the proposed Willow Creek All-Terrain Vehicle (ATV) Trail Expansion Project (WCATEP).

**SUPPLEMENTARY INFORMATION:** The NOI for this project was published on Friday, April 9, 2004, and can be found in the **Federal Register** Vol. 69, No. 69, pages 18866–18867.

Bradford District Ranger Anthony Scardina has recommended cancellation saying: It is important to focus on the maintenance and improvement of the recreation facilities and trails that we currently have on the District and Forest. This is the message that we continue to hear from our visitors and that is made apparent from our recent Recreation Facilities Analysis and other data analyses. Some of our existing motorized and non-motorized trails and recreation facilities need significant amounts of work to be maintained to standard and provide quality recreational experiences for our visitors. I have determined that it is not a responsible use of public funds to add 24 to 43 miles of new trail, estimated to cost $40,000 per mile to build. Therefore, I recommend that this project be cancelled.

**FOR FURTHER INFORMATION CONTACT:** Anthony V. Scardina, District Ranger or Julie Moyer, IDT Leader, Bradford Ranger District, 29 Forest Service Drive, Bradford, PA 16701, telephone (814)-363–6000.

Responsible Official: Leanne Marten, Forest Supervisor, Allegheny National Forest, 4 Farm Colony Drive, Warren, PA 16365, is the responsible official.

Dated: July 10, 2009.

**Leanne M. Marten,**

*Forest Supervisor.*

[FR Doc. E9–16914 Filed 7–15–09; 8:45 am]

BILLING CODE 3410–11–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the California Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the California Advisory Committee (Committee) to the Commission will convene on Tuesday, August 11, 2009 at 9 a.m. and adjourn at noon at Conference Room 1258–1A, 300 Federal Building, 300 N. Los Angeles St., Los Angeles, California. The purpose of the meeting is for the Committee to plan activities for fiscal year 2010.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by September 11, 2009. The address is U.S. Commission on Civil Rights, 300 North Los Angeles St., Suite 4333, Los Angeles, CA 90012. Persons wishing to e-mail their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Peter Minarik, Regional Director, Western Regional Office, at (213) 894–

3437 or 800–877–8339 for individuals who are deaf, hearing impaired, and/or have speech disabilities or by e-mail to *pminarik@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov*, or to contact the Western Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, July 13, 2009.

**Peter Minarik,**

*Acting Chief, Regional Programs Coordination Unit.*

[FR Doc. E9–16946 Filed 7–15–09; 8:45 am]

**BILLING CODE 6335–01–P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting of a subcommittee of the Rhode Island Advisory Committee (Committee) to the Commission will convene on Wednesday, July 29, at the Rhode Island Urban League, 248 Prairie Avenue, Providence, Rhode Island. The purpose of the meeting is for the subcommittee to meet with officers of the Rhode Island Police Chiefs Association to discuss the Chiefs' strategic plan and its implications on the Committee's report on racial profiling.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by August 28, 2009. The address is the Eastern Regional Office, 624 Ninth Street NW., Suite 740, Washington, DC 20425. Persons wishing to e-mail their comments or who desire additional information should contact Alfreda Greene, Secretary, at 202–376–7533 or by e-mail to: *ero@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov,* or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, July 13, 2009.

**Peter Minarik,**

*Acting Chief, Regional Programs Coordination Unit.*

[FR Doc. E9–16951 Filed 7–15–09; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**A–357–812**

### Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is partially rescinding its administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, to November 30, 2008 with respect to Nexco S.A. (Nexco). This rescission, in part, is based on the withdrawal of the request for review by the interested parties that requested the review.

**EFFECTIVE DATE:** July 16, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dena Crossland or John Drury, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–0195, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On December 1, 2008, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of the antidumping duty order on honey from Argentina. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 72764 (December 1, 2008). In response, on December 30, 2008, the Asociacion de Cooperativas Argentinas (ACA) requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. On December 31, 2008, the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008, with respect to 17 Argentine producers/exporters. Also on December 31, 2008, Nexco requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. ACA and Nexco were included in the petitioners' request for review.

On February 2, 2009, the Department initiated a review of the 17 companies for which an administrative review was requested. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 5821 (February 2, 2009). On March 6, 2009, petitioners timely withdrew their requests for review for the 15 following companies: AGLH S.A., Algodonera Avellaneda S.A., Alimentos Naturales–Natural Foods, Alma Pura, Bomare S.A. (Bodegas Miguel Armengol), Compania Apicola Argentina S.A. and Mielar S.A., Compania Inversora Platense S.A., EL Mana S.A., HoneyMax S.A., Interrupcion S.A., Miel Ceta SRL, Patagonik S.A., Productos Afer S.A., Seabird Argentina S.A., and Seylinco S.A. On April 17, 2009, the Department rescinded the administrative review with respect to these 15 companies because the petitioners were the only party to request administrative review of each of these companies. *See Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 17815 (April 17, 2009).

On June 10, 2009, both petitioners and Nexco submitted letters withdrawing their requests for an administrative review of Nexco.

#### Scope of the Order

The merchandise covered by the order is honey from Argentina. The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50

percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise under the scope of the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the Department's written description of the merchandise under this order is dispositive.

**Rescission, in Part, of the Antidumping Duty Administrative Review**

Section 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request.

Both petitioners and Nexco withdrew their review requests after the 90-day deadline. However, the Department finds it reasonable to extend the withdrawal deadline for Nexco and petitioners because the Department has not yet devoted significant time or resources to this review. Further, we find that neither petitioners' nor Nexco's withdrawal of their requests for a review of Nexco constitutes an abuse of our procedures. *See, e.g., Persulfates from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review*, 71 FR 13810, 13811 (March 17, 2006). As a result, we are rescinding this review with regard to Nexco.

**Assessment**

The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after the publication of this notice. The Department will direct CBP to assess antidumping duties for Nexco at the cash deposit rate in effect on the date of entry for entries during the period December 1, 2007 to November 30, 2008.

**Notification to Importers**

This notice serves as a reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of time. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

**Notification Regarding Administrative Protective Orders (APOs)**

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with section 351.213(d)(4) of the Department's regulations and sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: July 8, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9–16956 Filed 7–15–09; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XQ16**

### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Cost Recovery Program

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

**ACTION:** Notification of fee percentage.

**SUMMARY:** NMFS publishes a notification of a zero (0) percent fee for cost recovery under the Bering Sea and Aleutian Islands Crab Rationalization Program. This action is intended to provide holders of crab allocations with the fee percentage for the 2009/2010 crab fishing year.

**DATES:** The Crab Rationalization Program Registered Crab Receiver permit holder is responsible for submitting the fee liability payment to NMFS on or before July 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Gabrielle Aberle or Gretchen Harrington, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

**Background**

NMFS Alaska Region administers the Bering Sea and Aleutian Islands Crab Rationalization Program (Program) in the North Pacific. Fishing under the Program began in August 15, 2005. Regulations implementing the Program are set forth at 50 CFR part 680.

The Program is a limited access system authorized by section 313(j) of the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act). The Program includes a cost recovery provision to collect fees to recover the actual costs directly related to the management and enforcement of the Program. NMFS developed the cost recovery provision to conform to statutory requirements and to partially reimburse the agency for the unique added costs of management and enforcement of the Program. Section 313(j) of the Magnuson–Stevens Act provided supplementary authority to section 304(d)(2)(A) and additional detail for cost recovery provisions specific to the Program. The cost recovery provision allows collection of 133 percent of the actual management, data collecting, and enforcement costs up to three percent of the ex–vessel value of crab harvested under the Program. Additionally, section 313(j) requires the harvesting and processing sectors to each pay half the cost recovery fees. Catcher/processor quota share holders are required to pay the full fee percentage for crab processed at sea.

A crab allocation holder generally incurs a cost recovery fee liability for every pound of crab landed. The crab allocations include Individual Fishing Quota, Crew Individual Fishing Quota, Individual Processing Quota, Community Development Quota, and the Adak community allocation. The Registered Crab Receiver (RCR) permit holder must collect the fee liability from the crab allocation holder who is landing crab. Additionally, the RCR permit holder must collect his or her own fee liability for all crab delivered to the RCR. The RCR permit holder is responsible for submitting this payment to NMFS on or before the due date of July 31, following the crab fishing year in which landings of crab were made.

The dollar amount of the fee due is determined by multiplying the fee percentage (not to exceed three percent)

by the ex–vessel value of crab debited from the allocation. Specific details on the Program's cost recovery provision may be found in the implementing regulations set forth at 50 CFR 680.44.

**Fee Percentage**

Each year, NMFS calculates and publishes in the **Federal Register** the fee percentage according to the factors and methodology described in Federal regulations at § 680.44(c)(2). The formula for determining the fee percentage is the ''direct program costs'' divided by ''value of the fishery,'' where ''direct program costs'' are the direct program costs for the Program for the previous fiscal year, and ''value of the fishery'' is the ex–vessel value of the catch subject to the crab cost recovery fee liability for the current year.

The fee percentage has declined over time because of a variety of factors including the increasing value of the fishery due to increased total allowable catch limits for various crab species such as Bristol Bay red king crab (*Paralithodes camtshaticus*) and Bering Sea Snow crab (*Chionoecetes opilio*), increased ex–vessel price per pound of crab relative to previous years, and decreased management costs relative to previous years primarily due to decreased staff and contract costs. Because by regulation the fee percentage is established in the first quarter of a crab fishery year based on the fishery value and the costs of the prior year, fee collections for any given year may be less than, or greater than, the actual costs and fishery value for that year.

Using the fee percentage formula described above, the estimated percentage of costs to value for the 2007/2008 and 2008/2009 crab fishing years was 3.0 percent and 1.05 percent, respectively. These fee levels have resulted in a fee collection greater than the actual management, data collection, and enforcement costs for the 2008/2009 crab fishing year. Therefore, fee revenues remain to cover projected actual costs for 2009/2010. As a result, NMFS has determined that the fee percentage will be 0 percent for the 2009/2010 crab fishing year.

**Authority:** 16 U.S.C. 1862 *et seq.*

Dated: July 9, 2009.

**Kristen C. Koch,**

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

[FR Doc. E9–16811 Filed 7–15–09; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 0907021106–91110–01]**

**RIN 0648–ZC09**

### Northeast Region Fishing Gear Exchange Project

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

**ACTION:** Notice of funding availability.

**SUMMARY:** Right, humpback and fin whales, which are listed as endangered under the Endangered Species Act, are occasionally injured or killed through incidental entanglement in fishing gear. Based on gear retrieved from entangled whales, interactions can occur with any component of the fishing gear, including buoy lines, groundlines, gillnet floatlines, and surface systems. Provisions of the Atlantic Large Whale Take Reduction Plan (ALWTRP) require that permit holders using trap/pot and gillnet gear comply with requirements designed to reduce the serious injury and mortality of large whales. One such gear modification requires the use of sinking groundlines. Other risk reduction measures include adding weak links to fixed fishing gear which can assist entangled whales in breaking free after an interaction has occurred.

NMFS is providing financial assistance in the form of a grant to support the development and implementation of a fishing gear exchange project for Lobster Management Areas 2 and 3 in the Northeast Region. This document describes how to submit proposals for funding and how NMFS will determine which proposals will be funded; this document should be read in its entirety prior to the submission of a proposal.

This project will support NOAA's mission goal to protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management.

**DATES:** Applications must be postmarked, provided to a delivery service or received by *http://www.grants.gov* by 11:59 p.m. Eastern Daylight Time on July 30, 2009. Use of U.S. Mail or another delivery service must be documented with a receipt. Please note that it may take Grants.gov up to two business days to validate or reject an application. Please keep this in mind when developing your submission timeline.

**ADDRESSES:** The Full Funding Opportunity (FFO) announcement and application instructions for this grant program are available through the Grants.gov website at *http://www.grants.gov*. For applicants without internet access, an application package may be obtained by contacting Amanda Johnson, NOAA's National Marine Fisheries Service, Northeast Regional Office, 55 Great Republic Drive, Suite 04–400, Gloucester, MA 01930; Phone: 978–282–8463, E–mail: *Amanda.Johnson@noaa.gov*.

Applications should be submitted electronically through the Grants.gov website at *http://www.grants.gov*. Those applicants without internet access may submit a hard copy (by postal mail or commercial delivery) to: NMFS Northeast Regional Office, Attn: Amanda Johnson, 55 Great Republic Drive, Suite 04–400, Gloucester, MA 01930. No other methods of submission are permissible without explicit NOAA approval.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions regarding this proposal solicitation, please contact Amanda Johnson at the NOAA/NMFS/Northeast Regional Office, Protected Resources Division, 55 Great Republic Drive, Suite 04–400, Gloucester, MA 01930, by phone at 978–282–8463, or by email at *Amanda.Johnson@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

The principal objective of the Northeast Region Fishing Gear Exchange Project is to implement a voluntary fishing gear exchange project in which participating fishing industry members regulated by the ALWTRP are provided with financial assistance to comply with the ALWTRP's sinking groundline and weak link requirements. Another objective of this project is to develop a plan for recycling the collected floating groundline to ensure that none of the lines are returned to the ocean for any purpose, fishing or otherwise. A third objective is to work cooperatively with participating industry members to collect gear configuration information via a gear survey.

For a proposal to be competitive, it must demonstrate a clear process for developing and implementing a successful fishing gear exchange project. This includes notifying, registering, and communicating with participating fishing industry members; approximating the amount of floating groundline to be exchanged and determining an assigned price per pound for the delivered groundline; working with gear manufacturers and

distributors to gain their participation in the project; determining appropriate times and locations for gear collections based on industry needs and responses; determining the appropriate methods to collect, handle, and recycle the collected floating groundline; and determining the appropriate methods to assist in the purchase of weak links. A number of floating groundline buyback and recycling projects have been completed or are on–going along the East Coast of the U.S. These have taken place in Maine, Massachusetts, and New York, as well as in the Mid–Atlantic region (including the states of New Jersey, Delaware, Maryland, Virginia, and a portion of North Carolina) and have been administered by a variety of groups, including non–profit organizations, state and federal government agencies. A successful proposal will incorporate the successful components of these projects.

In addition, competitive proposals must demonstrate the applicant's good rapport with the fishing industry in the Northeast Region and ability to handle a project of this magnitude. Proposals must also demonstrate the ability to maximize the percentage of the award funding that is spent assisting fishermen in complying with the ALWTRP requirements, based on the differences in costs of floating versus sinking line and on the costs of complying with weak link requirements. This includes gauging potential participation by eligible fishermen and, based on this and other costs of the project, determining the appropriate figure for reimbursing fishermen for the floating groundline they have brought forward to exchange (e.g., providing $1.50 per pound of line turned in, etc.). It also includes determining the most appropriate methods for providing assistance for participating fishermen to comply with weak link requirements.

The project will also incorporate recordkeeping and information collection. Information must be collected related to participating fishermen to document the amount of line exchanged, among other components. Additionally, the project will include a gear survey that will help NMFS better quantify information about vertical lines. This information will assist in the management of fishing gear interactions with large whales.

**Electronic Access**

The full text of the Full Funding Opportunity announcement for this program can be accessed via the Grants.gov web site at *http://www.grants.gov*. The announcement will also be available by contacting the program officials identified under **FOR FURTHER INFORMATION CONTACT**. Applicants must comply with all requirements contained in the Full Funding Opportunity announcement.

**Statutory Authority**

The statutory authority for this project can be found at 16 U.S.C. 661 and 16 U.S.C. 1881c.

**Catalog of Federal Domestic Assistance (CFDA)**

The Catalog of Federal Domestic Assistance program number for this solicitation is 11.452, Unallied Industry Projects.

**Funding Availability**

NOAA anticipates that up to $3 million may be available for this project in the NMFS fiscal year 2009 budget. A grant will be awarded for the amount of funding in its entirety to the successful applicant. Therefore, all proposals should be developed to request the entire $3 million. The exact amount of funds that may be awarded will be determined during pre–award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific grant proposal or to obligate any available funds. If an application for a financial assistance award is selected for funding, NOAA has no obligation to provide any additional funding in connection with that award in subsequent years.

**Eligibility**

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

**Cost Sharing Requirements**

No cost sharing or matching is required for this project.

**Evaluation and Selection Procedures**

The general evaluation criteria and selection factors that apply to applications to this funding opportunity are summarized below. Further information about the evaluation criteria and selection factors can be found in the Full Funding Opportunity announcement.

**Evaluation Criteria for Projects**

The proposals will be evaluated and scored based on the following weighted criteria (each proposal can receive a total score between 1 and 5 points):

1) Importance and/or relevance and applicability of the proposed project to the program goals (weight=30%): This criterion ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal, regional, State, or local activities. For this competition, the proposal should demonstrate that the applicant has a clear knowledge and understanding of the purpose and relevance of the proposed work. It should also demonstrate an ability to provide economic assistance to the Northeast Region's commercial fishing industry affected by the ALWTRP, while providing benefits to large whale species. For this criterion, reviewers will base their assessments on the following scoring system: 1 = lack of importance/relevance; 3 = intermediate level importance/relevance; 5 = very important/relevant.

2) Technical/scientific merit (weight=35%): This criterion assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives. The proposal should clearly address the program priorities and components that were discussed earlier in this document, including designing a gear survey in conjunction with NMFS. For this criterion, reviewers will base their assessments on the following scoring system: 1 = completely unsound, unlikely to meet the project's objectives; 3 = intermediately sound, reasonably likely to meet the project's objectives; 5 = extremely sound and likely to meet the project's objectives.

3) Overall qualifications of applicants (weight=10%): This ascertains whether the applicant possesses the necessary education, experience, training, facilities, and administrative resources to accomplish the project. For this competition, the proposal should demonstrate coordination with other agencies and groups that have conducted gear exchange projects in the past or are currently implementing such projects. For this criterion, reviewers will base their assessments on the following scoring system: 1 = lack of qualification and/or resources to accomplish project; 3 = intermediate level of qualification and/or resources to accomplish project; 5 = extremely qualified and able to accomplish project.

4) Project costs (weight=15%): The budget is evaluated to determine if it is realistic and commensurate with the project needs and time–frame. For this competition, one project will be awarded the entire amount of available funding. Therefore, the budget should reflect the ability of the work to be completed with the funding amount and

timing proposed. Additionally, the budget should maximize to the fullest extent possible the amount of financial assistance that is being provided to the fishermen who participate in the project. For this criterion, reviewers will base their assessments on the following scoring system: 1 = lack of information and detail provided, unrealistic; 3 = sufficient amount of information and detail provided, realistic; 5 = extremely informative, detailed, and realistic.

5) Outreach and education (weight=10%): NOAA assesses whether this project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nation's natural resources. For this competition, the proposal should describe how outreach and education for this project will be conducted to maximize the number of gear exchange participants from the fishing industry. Collaborations with other agencies and partners to accomplish this component should also be described. The applicant should provide a draft gear survey with the proposal for evaluation and final approval by NMFS. For this criterion, reviewers will base their assessments on the following scoring system: 1 = insufficient outreach/education; 3 = adequate outreach/education; 5 = extremely effective outreach/education.

**Review and Selection Process**

Screening, review, and selection procedures will take place in 3 steps: initial evaluation, merit review, and final selection by the Selecting Official (i.e., the NMFS Regional Administrator in the Northeast). Initial evaluation of applications will be conducted to ensure that the submitted application packages contain the required forms and application elements and meet the eligibility criteria.

Applications meeting the requirements of this solicitation will then undergo merit review. Each application will be reviewed by a minimum of three reviewers, who will independently evaluate and score proposals using the evaluation criteria provided in the ''Evaluation Criteria for Projects'' section. Merit reviewers will be federal employees with appropriate subject–matter expertise. The reviewers' ratings will be used to produce a rank order of the proposals.

After applications have undergone merit review, the Selecting Official will make the final decision regarding which applications will be recommended to the NOAA Grants Officer for funding based upon the numerical rankings and evaluations of the applications by the merit reviewers, as well as the selection factors set forth in the ''Selection Factors for Projects'' section.

**Selection Factors for Projects**

The Selecting Official shall award in the rank order of the review ratings unless the proposal is justified to be selected out of rank order based upon the following factors, where applicable:

1. Availability of funding.
2. Balance/distribution of funds:
   a. Geographically.
   b. By type of institutions.
   c. By type of partners.
   d. By research areas.
   e. By project types.
3. Whether this project duplicates other projects funded or considered for funding by NOAA or other Federal agencies.
4. Program priorities and policy factors.
5. Applicant's prior award performance.
6. Partnerships and/or participation of targeted groups.
7. Adequacy of information necessary for NOAA staff to make a NEPA determination and draft necessary documentation before recommendations for funding are made to the Grants Officer.

**Classification**

*Executive Order 12373*

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed on the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

*Limitation of Liability*

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

*National Environmental Policy Act (NEPA) Review*

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA website: *http://www.nepa.noaa.gov/*, including our NOAA Administrative Order 216–6 for NEPA, *http://www.osec.doc.gov/bmi/daos/216–6.htm*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc__ceq.htm*. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non–indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

*The Department of Commerce Pre–Award Notification Requirements for Grants and Cooperative Agreements*

The Department of Commerce Pre–Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696), are applicable to this solicitation.

*Paperwork Reduction Act*

This document contains collection–of–information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001.

Notwithstanding any other provision of law, no person is required 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 PRA unless that collection of information displays a currently valid OMB control number.

*Executive Order 12866*

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

*Executive Order 13132 (Federalism)*

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

*Administrative Procedure Act/ Regulatory Flexibility Act*

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: July 9, 2009.

**Gary Reisner,**

*Director, Office of Management and Budget, National Marine Fisheries Service.*

[FR Doc. E9–16813 Filed 7–15–09; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Hydrographic Services Review Panel Membership Solicitation

**AGENCY:** National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of extension of membership solicitation for Hydrographic Services Review Panel; correction.

**SUMMARY:** The National Oceanic and Atmospheric Administration published a document in the **Federal Register** of June 29, 2009, entitled Hydrographic Services Review Panel Meeting. The title of the notice is incorrect. The correct title is Hydrographic Services Review Panel Membership Solicitation.

The National Oceanic and Atmospheric Administration (NOAA) is soliciting nominations for membership on the Hydrographic Services Review Panel (the Panel), a Federal advisory committee. NOAA is extending the time period for submission of membership applications from Friday, June 26, 2009, to Friday, July 24, 2009. This notice responds to the Hydrographic Services Improvement Act Amendments of 2002, Public Law 107–372, which requires the Under Secretary of Commerce for Oceans and Atmosphere to solicit nominations for Panel membership. The Panel will advise the Under Secretary on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998 and such other appropriate matters as the Under Secretary refers to the Panel for review and advice. To apply for membership on the Panel, applicants should submit a resume as indicated in the **ADDRESSES** section.

**DATES:** As noted in the June 26, 2009, **Federal Register**, resumes should be sent to the address, e-mail, or fax specified and must be received by July 24, 2009.

**ADDRESSES:** Submit applications for membership on the Panel to Rebecca Arenson via mail, fax, or e-mail at: (1) Mail: Rebecca Arenson, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Room 6126, Silver Spring, MD 20910, Fax: 301–713–4019, E-mail: *Hydroservices.panel@noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Arenson, Office of Coast Survey, National Ocean Service (NOS), NOAA (N/CS), 1315 East West Highway, Room 6126, Silver Spring, Maryland 20910; Telephone: 301–713–2780 x158, Fax: 301–713–4019; E-mail: *Rebecca.Arenson@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** Under 33 U.S.C. 883a, *et seq.,* NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The Hydrographic Services Review Panel provides advice on topics such as ''NOAA's Hydrographic Survey Priorities,'' technologies relating to operations, research, and development of data pertaining to:

(a) Hydrographic surveying;
(b) Nautical charting;
(c) Water level measurements;
(d) Current measurements;
(e) Geodetic measurements; and
(f) Geospatial measurements.

The Panel has 15 voting members appointed by the Under Secretary of Commerce for Oceans and Atmosphere in accordance with section 105 of Public Law 107–372. Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. The Co-Directors of the Joint Hydrographic Center and two other employees of the National Oceanic and Atmospheric Administration serve as nonvoting members of the Panel. The Director, Office of Coast Survey, serves as the Designated Federal Official (DFO). This solicitation is to obtain candidate applications for one current voting vacancy on the Panel, and for five voting members whose terms expire January 1, 2010, and candidates for voting members who might resign at any time during 2009. Be advised that some voting members whose terms expire January 1, 2010, may be reappointed for another full term if eligible.

Voting members are individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more disciplines relating to hydrographic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, and coastal or fishery management. An individual may not be appointed as a voting member of the Panel if the individual is a full-time officer or employee of the United States. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Under Secretary) any assistance under the Act shall disclose to the Panel that relationship, and may not vote on any other matter pertaining to that assistance.

Voting members of the Panel serve a four-year term, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the Under Secretary and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve until his or her successor has taken office. The Panel selects one voting member to serve as the Chair and another to serve as the Vice Chair. The Vice Chair acts as Chair in the absence or incapacity of the Chair but will not automatically become the Chair if the Chair resigns. Meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the Under Secretary. Voting members receive

compensation at a rate established by the Under Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the Panel. Members are reimbursed for actual and reasonable expenses incurred in performing such duties.

Panel members selected to serve on the HSRP FACA committee must complete the following actions (please note this is not part of the application process, and is only relevant to the appointment process):

(a) Security Clearance (on-line Background Security Check process and fingerprinting conducted through NOAA Workforce Management);

(b) Confidential Financial Disclosure Report—As a special government employee (SGE) you are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Report at the following Web site: *http://www.usoge.gov/forms/form_450.aspx.*

(c) Certification of Status Statement (certifying statement that as an SGE you are not an agent of a foreign principal or a lobbyist—document provided by NOAA).

Dated: July 9, 2009.

**Captain Steven Barnum,**

*NOAA, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. E9–16876 Filed 7–15–09; 8:45 am]

**BILLING CODE 3510–JE–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN: 0648–XQ32**

### Mid-Atlantic Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council), its Protected Resources Committee, its Research Set-Aside Committee, its Ecosystems and Ocean Planning Committee, its Bycatch and Limited Access Privilege Program (LAPP) Committee, its Squid, Mackerel, Butterfish Committee, and its Executive Committee will hold public meetings.

**DATES:** The meetings will be held Tuesday, August 4, 2009 through Thursday, August 6, 2009. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meetings will be held at the Embassy Suites Alexandria, 1900 Diagonal Road, Alexandria, VA 22314; telephone: (703) 684–5900.

*Council address*: Mid-Atlantic Fishery Management Council, 300 S. New St., Room 2115, Dover, DE 19904; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331 ext. 19.

**SUPPLEMENTARY INFORMATION:** On Tuesday, August 4, the Protected Resources Committee with Advisors will meet concurrently with the Research Set-Aside Committee (RSA) from 8 a.m. until 9:30 a.m. The Ecosystems and Ocean Planning Committee will meet from 9:30 a.m. until 11:30 a.m. The Bycatch and LAPP Committee will meet from 12:30 p.m. until 1:30 p.m. The Squid, Mackerel, and Butterfish Committee will meet from 1:30 p.m. until 2:30 p.m. From 2:30 p.m. until 3:15 p.m., the Council will hear a report on the outcome of the 48th Stock Assessment Review Committee meeting. From 3:15 p.m. until 5:15 p.m., the Council will finalize scup management measures for 2010 in conjunction with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Board. On Wednesday, August 5, 2009, the Executive Committee will meet from 8:30 a.m. until 9 a.m. From 9 a.m. until 5 p.m., the Council will convene to finalize summer flounder, black sea bass, and bluefish management measures for 2010 in conjunction with the ASMFC's Summer Flounder, Black Sea Bass, and Bluefish Boards, and receive an update from United States Coast Guard (USCG) officers on vessel stability and activities in the USCG's 5th District. On Thursday, August 6, the Council will convene from 8 a.m. until 9 a.m., to receive a presentation on Amendment 3 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan. From 9 a.m. until 12 p.m., the Council will discuss the Omnibus Amendment on Annual Catch Limits and Accountability Measures (ACL/AM). From 1 p.m. until 4 p.m., the Council will convene to conduct its regular Business Session, receive Council Liaison Reports, Organizational Reports, Executive Director Reports, receive a report on the status of MAFMC's FMPs, Committee Reports, and any continuing and/or new business.

Agenda items by day for the Council's Committees and the Council itself are: On Tuesday, August 4 - The Protected Resources Committee with Advisors will develop comments for Council consideration and action regarding NMFS' sea turtle strategy. The Research Set-Aside Committee (RSA) will finalize the Council's research priorities for the 2011 cycle of its RSA grant program. The Ecosystems and Ocean Planning Committee will review and address Marine Protected Area (MPA) designations published in the April 23rd **Federal Register** and consider adding or deleting MPA designations per NMFS guidance. The Bycatch and Limited Access Privilege Program (LAPP) Committee will receive an update on NOAA's Catch Shares Task Force activities and receive a report on bycatch reduction activities in the black sea bass pot fishery. The Squid, Mackerel, and Butterfish Committee will address river herring bycatch issues in the mackerel fishery for purposes of considering development of a possible future amendment, and address an update of the Loligo control date for a possible future catch share program. The Council will receive a report by Dr. James Weinberg (NMFS, NEFSC) on the outcome of the 48th Stock Assessment Review Committee meeting concerning ocean quahog, tilefish, and weakfish. The Council in conjunction with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Board will review the Scientific and Statistical Committee (SSC) and the Scup Monitoring Committee's scup specification recommendations for 2010 and adopt 2010 commercial and recreational harvest levels and commercial management measures for scup.

On Wednesday, August 5 - The Executive Committee will meet to review the Ricks E Savage Award criteria and nomination process, and review allocation of FY 09 funds to ACL/AM activities. The Council in conjunction with the ASMFC's Summer Flounder, Scup, Black Sea Bass, and Bluefish Boards will review the SSC and the associated Monitoring Committees' specification recommendations for 2010 and adopt 2010 commercial and recreational harvest levels and commercial management measures for summer flounder, and bluefish. Recreational management measures for 2010 will also be adopted for bluefish. The Council will also receive a

presentation on vessel stability and activities of the USCG's 5th District.

On Thursday, August 6 - The Council will receive a presentation by NMFS Officials regarding the proposed rule for Amendment 3 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan. The Council will then address its Omnibus Amendment on ACL/AMs by reviewing and discussing the SSC's report on Scientific Uncertainty and Risk; reviewing and selecting management alternatives to establish ABCs, ACLs and AMs for continued Amendment development regarding each of the Council's FMPs species; and, discussing risk policy development regarding setting of ABCs and ACLs. The Council will conduct its regular Business Session, receive Council Liaison Reports, Organizational Reports, the Executive Director's Report, a report on the status of the Council's FMPs, Committee Reports, and any continuing and/or new business including approval of Council comments regarding NMFS' Proposed Rule on Sea Turtle Strategy and the Council's updated multi-year research priorities (2010–2014).

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address such emergencies.

## Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Bryan, (302) 674–2331, ext 18, at least 5 days prior to the meeting date.

Dated: July 13, 2009.

**Tracey L. Thompson,**

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

[FR Doc. E9–16909 Filed 7–15–09; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN: 0648–XQ30**

### Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Advisory Panel in North Charleston, SC.

**DATES:** The meeting will take place August 4–6, 2009. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meeting will be held at the Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC; telephone: (843) 308–9330.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC, 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

**SUPPLEMENTARY INFORMATION:** Members of the Snapper Grouper Advisory Panel will meet from 1 p.m. until 5 p.m. on August 4, 2009, from 8:30 a.m. until 5 p.m. on August 5, 2009, and from 8:30 a.m. until 3 p.m. on August 6, 2009.

The Advisory Panel will review actions and management alternatives in draft Amendment 17A to the Snapper Grouper Fishery Management Plan (FMP) for the South Atlantic Region regarding the management of red snapper, including measures to end overfishing, establishment of Overfishing Levels (OFLs), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs) and Accountability Measures (AMs) and other measures. The AP will review actions and alternatives in draft Amendment 17B to the Snapper Grouper FMP establishing OFLs, ACLs, ACTs, AMs and other measures for other species in the Council's jurisdiction listed as undergoing overfishing.

The AP will review actions and management alternatives in draft Amendment 18 to the Snapper Grouper FMP addressing the extension of the snapper grouper management unit northward and other issues, and draft Amendment 20 to the Snapper Grouper FMP addressing the management of wreckfish, including the current Individual Transferable Quota (ITQ) program, and establishment of management parameters including Maximum Sustainable Yield (MSY), OFLs, Acceptable Biological Catch (ABC), ACLs, AMs and other measures. AP members will also review the draft Comprehensive ACL Amendment addressing management requirements, including ABCs, ACLs, ACTs and AMs for species under the Council's jurisdiction not currently listed as undergoing overfishing. The AP will provide recommendations to the Council regarding each of the draft amendments.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Note: The times and sequence specified in this agenda are subject to change.

## Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Dated: July 13, 2009.

**Tracey L. Thompson,**

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

[FR Doc. E9–16908 Filed 7–15–09; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Publication of North American Datum of 1983 State Plane Coordinates in Feet in Utah

**AGENCY:** National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration.

**ACTION:** Notice.

**SUMMARY:** The National Geodetic Survey (NGS) will publish North American Datum of 1983 (NAD 83) State Plane

Coordinate (SPC) grid values in both meters and U.S. Survey Feet (1 ft = 1200/3937 m) in Utah, for all well defined geodetic survey control monuments maintained by NGS in the National Spatial Reference System (NSRS) and computed from various geodetic positioning utilities. The adoption of this standard is implemented in accordance with NGS policy and a request from the Utah Department of Transportation, the Utah Council of Land Surveyors, and the Utah Automated Geographic Reference Center.

**DATES:** Individuals or organizations wishing to submit comments on the Publication of North American Datum of 1983 State Plane Coordinates in feet in Utah, should do by August 17, 2009.

**ADDRESSES:** Written comments should be sent to the attention of David Doyle, Chief Geodetic Surveyor, Office of the National Geodetic Survey, National Ocean Service (N/NGS2), 1315 East-West Highway, Silver Spring, Maryland, 20910, fax 301–713–4324, or via e-mail *Dave.Doyle@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to David Doyle, Chief Geodetic Surveyor, National Geodetic Survey (N/NGS2), 1315 East-West Highway, Silver Spring, MD 20910, Phone: (301) 713–3178.

**SUPPLEMENTARY INFORMATION:**

## Abstract

In 1991, NGS adopted a policy that defines the conditions under which NAD 83 State Plane Coordinates (SPCs) would be published in feet in addition to meters. As outlined in that policy, each state or territory must adopt NAD 83 legislation (typically referenced as Codes, Laws or Statutes), which specifically defines a conversion to either U.S. Survey or International Feet as defined by the U.S. Bureau of Standards in 59 FR 5442. To date, 48 states have adopted the NAD 83 legislation however, for various reasons, only 33 included a specific definition of the relationship between meters and feet. This lack of uniformity has led to confusion and misuse of SPCs as provided in various NGS products, services and tools, and created errors in mapping, charting and surveying programs in numerous states due to inconsistent coordinate conversions.

Dated: July 7, 2009.

**Juliana P. Blackwell,**

*Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. E9–16896 Filed 7–15–09; 8:45 am]

**BILLING CODE 3510–JE–P**

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## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

**RIN: 0660–ZA01**

### Broadband Technology Opportunities Program

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of funds availability and solicitation of applications; publication of OMB control number for information collection.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) announces approval by the Office of Management and Budget (OMB) of the collection of information requirements contained a Notice of Funds Availability (NOFA) for the Broadband Technology Opportunities Program (BTOP) published on July 9, 2009.

**DATES:** Comments on the collection of information requirements in the BTOP NOFA are due by August 31, 2009.

**ADDRESSES:** Comments regarding burden hour estimates or other aspects of the collection of information associated with BTOP should be directed to Gwellnar Banks, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via electronic mail at gbanks@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** For information regarding the BTOP, contact Anthony Wilhelm, Deputy Associate Administrator, Office of Telecommunications and Information Applications, National Telecommunications and Information Administration, U.S. Department of Commerce, by telephone at (202) 482–2048 or via electronic mail at btop@ntia.doc.gov. You may obtain additional information regarding applications for BTOP via the Internet at http://www.ntia.doc.gov/broadbandgrants/.

**SUPPLEMENTARY INFORMATION:** On July 9, 2009, NTIA along with the Rural Utilities Service, U.S. Department of Agriculture, published a Notice of Funds Availability (NOFA) (74 FR 33104) announcing procedures for broadband grant and loan programs established pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111–5, 123 Stat. 115 (2009). NTIA established the Broadband Technology Opportunities Program (BTOP) to make available grants for deploying broadband infrastructure in unserved and underserved areas in the United States, enhancing broadband capacity at public computer centers, and promoting sustainable broadband adoption projects.

The application requirements for the BTOP contained in the NOFA are an information collection subject to the requirements of the Paperwork Reduction Act. However, when the NOFA was submitted for publication, the collection of information had not yet been approved by the Office of Management and Budget (OMB). Subsequently, NTIA received OMB approval for this collection of information. NTIA announces that the collection of information is approved under OMB Control Number 0660–0031, with an expiration date of January 31, 2010. This collection of information was approved by OMB in accordance with the emergency processing provisions under 5 CFR § 1320.13 to allow NTIA to fulfill its ARRA requirements.

In the BTOP NOFA, NTIA requested public comments on the collection of information specifically for the BTOP Infrastructure, Public Computer Center, and Sustainable Adoption programs. (*See* 74 FR at 33128 – 33129). The comments requested will be utilized as a part of a request by NTIA, if it decides to continue to use this collection past the approved emergency request clearance time period. At that time, NTIA would resubmit a collection of information request to OMB in accordance with the review process provided in the regulations implementing the Paperwork Reduction Act. A specific comment deadline was inadvertently not included in the BTOP NOFA and is hereby announced in this notice. Comments are due by August 31, 2009.

Dated: July 10, 2009.

**Kathy D. Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. E9–16904 Filed 7–15–09; 8:45 am]

**BILLING CODE 3510–60–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Notice of Solicitation for Members of the NOAA Science Advisory Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA) Office of Oceanic and Atmospheric Research.

**ACTION:** Notice of solicitation for members of the NOAA Science Advisory Board.

**SUMMARY:** NOAA is soliciting nominations for members of the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of 15 members reflecting the full breadth of NOAA's areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions. As a Federal Advisory Committee the SAB's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as including the interests of geographic regions of the country and the diverse sectors of our society (business and industry, science, academia, and the public at large).

**DATES:** Nominations should be sent to the address specified and must be received by September 14, 2009.

**ADDRESSES:** Nominations should be submitted electronically to *noaa.sab.2009members@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, E-mail: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

**SUPPLEMENTARY INFORMATION:** SAB activities and advice provide necessary input to ensure that NOAA science programs are of the highest quality and provide optimal support to NOAA's Mission Goals:

- Protect, Restore, and Manage the Use of Coastal and Ocean Resources Through an Ecosystem Approach to Management
- Understand Climate Variability and Change to Enhance Society's Ability to Plan and Respond
- Serve Society's Needs for Weather and Water Information
- Support the Nation's Commerce with Information for Safe, Efficient, and Environmentally Sound Transportation
- Provide Critical Support for NOAA's Mission

The SAB meets three times each year, exclusive of subcommittee, task force, and working group meetings. Board members must be willing to serve as liaisons to SAB working groups and/or participate in periodic reviews of the NOAA Cooperative Institutes and overarching reviews of NOAA's research enterprise. Board members are appointed for a 3-year term.

*Nominations:* Nominations should provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; and (3) a short description of his/her qualifications relative to the kinds of advice being solicited. Inclusion of a resume or curriculum vitae is also required.

Dated: July 10, 2009.

**Mark E. Brown,**

*Chief Financial Officer and Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. E9–16913 Filed 7–15–09; 8:45 am]

BILLING CODE 3510–KD–P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

**[Docket No. PTO–T–2009–0024]**

### Notice of Reformatted Trademark Registration Certificate

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Patent and Trademark Office (''Office'') is reformatting the certificates of registration issued for registered marks.

**DATES:** The reformatted registration certificates will begin issuing in September 2009.

**ADDRESSES:** The Office prefers that any comments on this notice be submitted via electronic mail message to *TMFRNotices@uspto.gov.* Written comments may also be submitted by mail to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, attention Cynthia C. Lynch; or by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia, attention Cynthia C. Lynch.

**FOR FURTHER INFORMATION CONTACT:** Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by telephone at (571) 272–8742.

**SUPPLEMENTARY INFORMATION:** To streamline the issuance of registration certificates, pursuant to 15 U.S.C. 1057(a), 1093 and 37 CFR 2.151, and for purposes of cost containment, modernization and efficiency, the Office will be reformatting the certificates of registration for marks registered both on the principal register and the supplemental register. Specifically, (1) the certificates will be printed on standard-size 8½ by 11-inch paper, rather than the custom-size paper on which they are currently printed; (2) the folder that is part of the current certificate will be eliminated; (3) the signature of the Director and the seal of the Office, which currently appear on the folder, will appear on the first page of the reformatted certificate; and (4) registration maintenance information, which currently appears on the folder, will appear on the final page of the reformatted certificate. The Office intends to begin issuing the reformatted certificates in September 2009. In advance of the change, the Office will post on its Web site an example of the reformatted certificate in August 2009.

Dated: July 10, 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. E9–16878 Filed 7–15–09; 8:45 am]

BILLING CODE 3510–16–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Meeting of the Uniform Formulary Beneficiary Advisory Panel

**AGENCY:** Department of Defense, Assistant Secretary of Defense (Health Affairs).

**ACTION:** Notice of meeting.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act of 1972 (Title 5, U.S. Code (U.S.C.)., Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal Advisory Committee Meeting of the Uniform Formulary

Beneficiary Advisory Panel (hereafter referred to as the Panel).

**DATES:** July 30, 2009 (10 a.m.–4 p.m.).

**ADDRESSES:** Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Colonel Thomas Bacon, Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel. Skyline 5, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206; Telephone: (703) 681–2890; Fax: (703) 681–1940; E-mail Address: *Baprequests@tma.osd.mil.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of Meeting:* The Panel will review and comment on recommendations made to the Director, TRICARE Management Activity, by the Pharmacy and Therapeutics Committee regarding the Uniform Formulary.

*Meeting Agenda:* Sign-In; Welcome and Opening Remarks; Public Citizen Comments; Scheduled Therapeutic Class Reviews–Designated Newly Approved Drugs; Panel Discussions and Vote, and comments following each therapeutic class review.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b, as amended, and Title 41, Code of Federal Regulations (CFR), Section 102–3.140 through 102–3.165, and the availability of space this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing in. All persons must sign in legibly.

*Administrative Work Meeting:* Prior to the public meeting the Panel will conduct an Administrative Work Meeting from 8 a.m. to 10 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue, NW., Washington DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

*Written Statements:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database–*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

*Public Comments:* In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice, but if they still want to address the Panel then they will be afforded the opportunity to register to address the Panel. The Panel's Designated Federal Officer will have a ''Sign Up Roster'' available at the Panel meeting, for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period no further public comments will be accepted. Anyone who signs up to address the Panel but is unable to do so due to the time limitation may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation. Accordingly, the Panel recommends that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: July 10, 2009.

**Morgan E. Frazier,**

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

[FR Doc. E9–16874 Filed 7–15–09; 8:45 am]

**BILLING CODE 5001–06–P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Transformation Advisory Group Closed Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of advisory committee closed meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2, Section 1), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.150, the Department of Defense announces the following federal advisory committee closed meeting of the Transformation Advisory Group.

**DATES:** August 14, 2009 (8 a.m. to 5 p.m.)

**ADDRESSES:** Institute for Defense Analyses, 4850 Mark Center Drive, Alexandria, VA 22311.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steven D. Behel, Designated Federal Officer, (757) 836–5365, 1562 Mitscher Ave., Suite 200, Norfolk, VA 23551–2488, *steven.behel@jfcom.mil.*

For supplementary information contact Mr. Floyd March, Joint Staff, (703) 697–0610.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Meeting:* The purpose of the meeting is to obtain, review and evaluate information related to scientific, technical and policy-related issues for the nation's joint enterprise, and U.S. Joint Forces Command with emphasis on how these issues relate to the shaping of the command's efforts today and in the future.

*Agenda:* Topics include: Joint Operating Environment, Capstone Concept for Joint Operations, and Quadrennial Defense Review Wargaming Efforts.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, VADM Robert S. Harward, Deputy Commander, U.S. Joint Forces Command in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, U.S.C.

*Written Statements:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Transformation Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Transformation Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to a scheduled meeting of the Transformation Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than 14 business days prior to the meeting in question. The Designated Federal

Officer will review all submitted written statements and provide copies to all the committee members.

Dated: July 9, 2009.

**Morgan E. Frazier,**

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

[FR Doc. E9–16875 Filed 7–15–09; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Department of Air Force

**[Docket ID: USAF–2009–0046]**

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Air Force.

**ACTION:** Notice to amend a system of records.

**SUMMARY:** The Department of Air Force proposes to amend a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The changes will be effective on August 17, 2009 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330–1800.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ben Swilley at (703) 696–6648.

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

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

Dated: July 10, 2009.

**Morgan E. Frazier,**

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

### F036 AETC O

**SYSTEM NAME:**

Defense English Language Management Information System (DELMIS) (June 11, 1997, 62 FR 31793).

**CHANGES:**

* * * * *

**SYSTEM NAME:**

Delete entry and replace with ''Student Data Management System (SDMS).''

**SYSTEM LOCATION:**

Delete entry and replace with ''Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, TX 78236–5231.''

* * * * *

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with ''10 U.S.C. 8013, Secretary of the Air Force; powers and duties; delegation by; as implemented by Air Force Instruction 16–103/OPNAVINST 1550.11/MCO 1550.24, Management of the Defense English Language Program; DoD Directive 5160.41E, Defense Language Program (DLP) and E.O. 9397 (SSN).''

**PURPOSE(S):**

Delete entry and replace with ''To track cause and type of attrition and to compare the results against demographic and performance data; monitor the progress of each individual toward completion of the program.''

* * * * *

**STORAGE:**

Delete entry and replace with ''Paper records and electronic storage media.''

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with ''Chief, Information Technology, Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, TX 78236–5231.''

**NOTIFICATION PROCEDURE:**

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Chief, Information Technology, Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, TX 78236–5231.

Inquiries should include name and Social Security Number to determine if the system contains a record relative to any specific individual. Valid proof of identity is required.

**RECORD ACCESS PROCEDURES:**

Delete entry and replace with ''Individuals seeking to access records about themselves contained in this system should address requests to the Chief, Information Technology, Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, TX 78236–5231.

Requests should include name and Social Security Number to determine if the system contains a record relative to any specific individual. Valid proof of identity is required.

* * * * *

### F036 AETC O

**SYSTEM NAME:**

Student Data Management System (SDMS).

**SYSTEM LOCATION:**

Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, Texas 78236–5231.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

International Military Students (IMS) and active duty military personnel assigned to the program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name and Social Security Number; demographic data such as date of birth, sex, marital status, ethnic group; educational data; performance data such as test scores; measurement data; individual training progress and proficiency; class schedule; locator, and academic status.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 8013, Secretary of the Air Force; powers and duties; delegation by; as implemented by Air Force Instruction 16–103/OPNAVINST 1550.11/MCO 1550.24, Management of the Defense English Language Program; DoD Directive 5160.41E, Defense Language Program (DLP) and E.O. 9397 (SSN).

**PURPOSE(S):**

To track cause and type of attrition and to compare the results against demographic and performance data; monitor the progress of each individual toward completion of the program.

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

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

The DoD 'Blanket Routine Uses' published at the beginning of the Air

Force's compilation of record system notices apply to this system.

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

**STORAGE:**

Paper records and electronic storage media.

**RETRIEVABILITY:**

Retrieved by name or student control number.

**SAFEGUARDS:**

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software. Access to the computer system requires user code and password.

**RETENTION AND DISPOSAL:**

Output products are retained until no longer needed; computerized records will be retained indefinitely after individual completes or discontinues training. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Information Technology, Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, Texas 78236–5231.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Chief, Information Technology, Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, Texas 78236–5231.

Inquiries should include full name and social security number to determine if the system contains a record relative to any specific individual. Valid proof of identity is required.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access records about themselves contained in this system should address requests to the Chief, Information Technology, Defense Language Institute English Language Center, 2235 Andrews Avenue, Lackland Air Force Base, Texas 78236–5231.

Requests should include full name and social security number to determine if the system contains a record relative to any specific individual. Valid proof of identity is required.

**CONTESTING RECORD PROCEDURES:**

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Information obtained from the individual, source documents, and commanders.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. E9–16873 Filed 7–15–09; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request; Correction

**AGENCY:** Energy Information Administration (EIA), Department of Energy (DOE).

**ACTION:** Agency Information Collection Activities: Submission for OMB Review; Comment Request; Correction.

**SUMMARY:** The EIA published a document in the **Federal Register** of July 6, 2009 announcing the submission of the form OE–781R, ''Monthly Electricity Imports and Exports Report'' to the Office of Management and Budget (OMB) for review and comment of a proposed three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*). The burden estimate published in this Federal Register notice, was incorrectly noted as 3,656 hours. The correct burden estimate is 1,926 hours. Additionally, ''Fossil Energy'' cited in paragraph (6) of the **SUPPLEMENTARY INFORMATION** section should have been referred to as ''the Office of Electricity Delivery and Energy Reliability.''

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Grace Sutherland. To ensure receipt of the comments by the due date, submission by FAX (202–586–5271) or e-mail (*grace.sutherland@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0670. Ms. Sutherland may be contacted by telephone at (202) 586–6264.

**Correction**

In the **Federal Register** of July 6, 2009, in FR Doc. E9–15912, make the following corrections:

On page 31937, first column, under the heading **SUPPLEMENTARY INFORMATION**: Paragraph (6), second sentence, is corrected to read:

(6) * * * The data are used by the Office of Electricity Delivery and Energy Reliability to monitor the levels of electricity imports and exports and are also used by EIA for publication.

Paragraph (8) is corrected to read:

(8) *Estimate of the total annual reporting burden:* 1,926 hours.

Issued in Washington, DC, July 9, 2009.

**Stephanie Brown,**

*Director, Statistics and Methods Group, Energy Information Administration.*

[FR Doc. E9–16823 Filed 7–15–09; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13482–000]**

### FFP Project 71, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 9, 2009.

On May 22, 2009, FFP Project 71, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Matthews Bend Hydrokinetic Project, to be located on the Mississippi River, in Chicot County, Arkansas and Washington County, Mississippi.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Matthews Bend Hydrokinetic Project consists of: (1) 3,802 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 152.08 megawatts; (2) a 5-mile-long, 69 kilovolt transmission line;

and (3) appurtenant facilities. The proposed Matthews Bend Hydrokinetic Project would have an average annual generation of 666 gigawatt-hours.

*Applicant Contact:* Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

*FERC Contact:* Kim Carter, 202–502–6486.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13482) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16847 Filed 7–15–09; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13484–000]**

### FFP Project 73, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 9, 2009.

On May 22, 2009, FFP Project 73, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Georgetown Bend Hydrokinetic Project, to be located on the Mississippi River, in Desha and Chicot Counties, Arkansas and Bolivar and Washington Counties, Mississippi.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Georgetown Bend Hydrokinetic Project consists of: (1) 2,915 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 116.60 megawatts; (2) a 3.6-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Georgetown Bend Hydrokinetic Project would have an average annual generation of 511 gigawatt-hours.

*Applicant Contact:* Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

*FERC Contact:* Kim Carter, 202–502–6486.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13484) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16849 Filed 7–15–09; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13486–000]**

### FFP Project 76, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 9, 2009.

On May 22, 2009, FFP Project 76, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Burke Landing Hydrokinetic Project, to be located on the Mississippi River, in Phillips County, Arkansas and Coahoma County, Mississippi.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Burke Landing Hydrokinetic Project consists of: (1) 2,028 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 81.12 megawatts; (2) a 2.2-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Burke Landing Hydrokinetic Project would have an average annual generation of 355 gigawatt-hours.

*Applicant Contact:* Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

*FERC Contact:* Kim Carter, 202–502–6486.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the

Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13486) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16851 Filed 7–15–09; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–30–003]**

### Petal Gas Storage, L.L.C.; Notice of Application

July 9, 2009.

Take notice that on June 29, 2009, Petal Gas Storage, L.L.C (Petal), 1100 Louisiana Street, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission a motion for reconsideration of Engineering Condition No. 5 of the Commission's March 28, 2007 order in the above-referenced docket. The motion requests permission to implement a Well and Cavern Integrity Monitoring Program in lieu of the well logging and sonar surveys required by Engineering Condition No. 5, as modified on rehearing. The motion for reconsideration will be treated as an application for amendment of Petal's existing certificate authority. The application is on file with the Commission and open to public inspection. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659

Any questions regarding the application should be directed to Richard Porter, Petal Gas Storage, L.L.C, 1100 Louisiana Street, Houston, Texas 77002, (telephone) (713) 381–2526, (fax) (713) 803–2534, *rporter@eprod.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: July 30, 2009.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16853 Filed 7–15–09; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13487–000]**

### FFP Project 77, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 9, 2009.

On May 22, 2009, FFP Project 77, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Cow Island Bend Hydrokinetic Project, to be located on the Mississippi River, in Crittenden County, Arkansas; DeSoto County, Mississippi; and Shelby County, Tennessee.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Cow Island Bend Hydrokinetic Project consists of: (1) 3,802 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 152.08 megawatts; (2) a 5-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Cow Island Bend Hydrokinetic Project would have an average annual generation of 666 gigawatt-hours.

*Applicant Contact:* Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

*FERC Contact:* Kim Carter, 202–502–6486.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Comments, motions to intervene,

notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13487) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16852 Filed 7–15–09; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13485–000]**

### FFP Project 75, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 9, 2009.

On May 22, 2009, FFP Project 75, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Old Town Bend Hydrokinetic Project, to be located on the Mississippi River, in Phillips County, Arkansas and Coahoma County, Mississippi.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Old Town Bend Hydrokinetic Project consists of: (1) 3,358 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 134.32 megawatts; (2) a 4.3-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Old Town Bend Hydrokinetic Project would have an average annual generation of 588 gigawatt-hours.

*Applicant Contact:* Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

*FERC Contact:* Kim Carter, 202–502–6486.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13485) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16850 Filed 7–15–09; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13483–000]**

### FFP Project 72, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 9, 2009.

On May 22, 2009, FFP Project 72, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Miller Bend Hydrokinetic Project, to be located on the Mississippi River, in Chicot County, Arkansas and Washington County, Mississippi.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Miller Bend Hydrokinetic Project consists of: (1) 2,724 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 108.96 megawatts; (2) a 3.3-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Miller Bend Hydrokinetic Project would have an average annual generation of 477 gigawatt-hours.

*Applicant Contact:* Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

*FERC Contact:* Kim Carter, 202–502–6486.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13483) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16848 Filed 7–15–09; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2453–240]**

### Consumers Energy Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 9, 2009.

a. *Type of Application:* Non-project use of project lands and waters.

b. *Project Number:* 2453–240.

c. *Date Filed:* June 25, 2009, and supplemented July 6, 2009.

d. *Applicant:* Consumers Energy Company.

e. *Name of Project:* Five Channels Hydroelectric Project.

f. *Location:* The project is located on the Au Sable River in Iosco County, Michigan, and occupies lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)825(r).

h. *Applicant Contact:* Mr. William Shoenlein, Consumers Energy Company, 330 Chestnut Street, Cadillac, MI 49601; telephone (231) 779–5504; e-mail: *waschoenlein@cmsenergy.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Christopher Yeakel at (202) 502–8132, or e-mail address: *christopher.yeakel@ferc.gov.*

j. *Deadline for filing comments and or motions:* August 10, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Consumers Energy Company proposes to permit the Iosco County Parks and Recreation Commission to construct a segment of a public snowmobile trail across project lands to provide a linkage corridor between two existing snowmobile trails. The portion of the trail that would occupy project lands would be approximately 990 feet in length and 12 feet wide, and utilize existing roadways. In developing the application, the licensee consulted with the Michigan Department of Natural Resources, U.S. Forest Service, U.S. Fish and Wildlife Service, and adjacent landowners.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–2453) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3372 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers (p-2453–240). All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E9–16846 Filed 7–15–09; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

July 8, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP01–229–004.

*Applicants:* Trunkline LNG Company, LLC.

*Description:* Trunkline LNG Company submits Fifth Revised Sheet 6 to its FERC Gas Tariff, Second Revised Volume 1–A, proposed effective dated of 8/1/09.

*Filed Date:* 06/30/2009.

*Accession Number:* 20090701–0066.

*Comment Date:* 5 p.m. Eastern Time on Monday, July 13, 2009.

*Docket Numbers:* RP05–422–033.

*Applicants:* El Paso Natural Gas Company.

*Description:* Supplemental Refund Report pertaining to 2008 Revenue Sharing of El Paso Natural Gas Company.

*Filed Date:* 05/29/2009.

*Accession Number:* 20090529–5056.

*Comment Date:* 5 p.m. Eastern Time on Monday, July 13, 2009.

*Docket Numbers:* RP09–792–001.

*Applicants:* Columbia Gas Transmission, LLC.

*Description:* Columbia Gas Transmission, LLC submits Substitute Fifth Revised Sheet 30 (Filing has been redocketed under RP09–792–001; RP09–813 has been cancelled).

*Filed Date:* 07/01/2009.

*Accession Number:* 20090706–0066.

*Comment Date:* 5 p.m. Eastern Time on Monday, July 13, 2009.

*Docket Numbers:* RP09–633–001.

*Applicants:* Millennium Pipeline Company, L.L.C.

*Description:* Millennium Pipeline Company, LLC submits Substitute Original 15 to its FERC Gas Tariff, Original Volume 1, to be effective 7/1/09.

*Filed Date:* 07/06/2009.

*Accession Number:* 20090707–0099.

*Comment Date:* 5 p.m. Eastern Time on Monday, July 20, 2009.

*Docket Numbers:* RP09–657–001.

*Applicants:* Millennium Pipeline Company, L.L.C.

*Description:* Millennium Pipeline Company, LLC submits Substitute First Revised Sheet 380 to its FERC Gas Tariff, Original Volume 1, to be effective 8/1/09.

*Filed Date:* 07/06/2009.

*Accession Number:* 20090707–0098.

*Comment Date:* 5 p.m. Eastern Time on Monday, July 20, 2009.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before 5 p.m. Eastern Time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests 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 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.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E9–16828 Filed 7–15–09; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

July 8, 2009.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER09–807–000.

*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* Midwest Independent Transmission System Operator, Inc. submits response to Commission's 5/28/09 letter requiring additional information concerning the 3/6/09 tariff filing.

*Filed Date:* 06/29/2009.

*Accession Number:* 20090630–0054.

*Comment Date:* 5 p.m. Eastern Time on Monday, July 20, 2009.

*Docket Numbers:* ER09–1416–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits revised rate sheets to the Foxborough Development Wholesale Distribution Load Interconnection Facilities Agreement, etc.

*Filed Date:* 07/07/2009.

*Accession Number:* 20090708–0112.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 28, 2009.

*Docket Numbers:* ER09–1417–000.

*Applicants:* Wabash Valley Power Association, Inc.

*Description:* Wabash Valley Power Association, Inc. submits Original Sheet 15 *et al.* to Rate Schedule FERC No. 11 *et al.* to be effective 9/5/09.

*Filed Date:* 07/07/2009.

*Accession Number:* 20090708–0111.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 28, 2009.

*Docket Numbers:* ER09–1418–000.

*Applicants:* Central Maine Power Company.

*Description:* Central Maine Power Company submits a revised Executed Large Generator Interconnection Agreement with Rumford Falls Hydro, LLC.

*Filed Date:* 07/07/2009.

*Accession Number:* 20090708–0113.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 28, 2009.

*Docket Numbers:* ER09–1419–000.

*Applicants:* Lumberton Power, LLC.

*Description:* Lumberton Power, LLC *et al.* submits Notice of Cancellation of its market based rate tariffs, effective 6/26/09.

*Filed Date:* 07/07/2009.

*Accession Number:* 20090708–0118.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 28, 2009.

*Docket Numbers:* ER09–1420–000.

*Applicants:* Elizabethtown Power, LLC.

*Description:* Lumberton Power, LLC *et al.* submits Notice of Cancellation of its market based rate tariffs, effective 6/26/09.

*Filed Date:* 07/07/2009.

*Accession Number:* 20090708–0118.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 28, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the

Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E9–16827 Filed 7–15–09; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2009–0367; FRL–8427–8]**

## Certain New Chemicals; Receipt and Status Information

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 26, 2009 through June 12, 2009, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

**DATES:** Comments identified by the specific PMN number or TME number, must be received on or before August 17, 2009.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0367, by one of the following methods:

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

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2009–0367. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions*: Direct your comments to docket ID number EPA–HQ–OPPT–2009–0367. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

*Docket*: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

**FOR FURTHER INFORMATION CONTACT:** Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM 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.

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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. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 26, 2009 through June 12, 2009, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

## III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit I. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I.—41 PREMANUFACTURE NOTICES RECEIVED FROM: 5/26/09 TO 6/12/09

| Case No. | Received Date | Projected Notice End Date | Manufacturer/Importer | Use | Chemical |
|---|---|---|---|---|---|
| P–09–0382 | 05/26/09 | 08/23/09 | Novozymes Biologicals, Inc. | (S) Nutrient for agriculture; intermediate used to manufacture agriculture soil amendments | (S) Iron, citrate phosphate potassium complexes* |
| P–09–0383 | 05/27/09 | 08/24/09 | CBI | (G) Adhesive component | (G) Plant oil, polymer with methylenebis[carbomonocyclic isocyanate] and polyether polyols |
| P–09–0384 | 05/27/09 | 08/24/09 | CBI | (G) Adhesion promoter, corrosion inhibitor, pigment dispersant | (G) Carboxy functional zircoaluminate chloride hydroxide polymer |
| P–09–0385 | 05/28/09 | 08/25/09 | CBI | (S) Raw material for manufacturing | (S) Benzenepropanol, *B*-methyl- |
| P–09–0386 | 05/29/09 | 08/26/09 | CBI | (G) Raw material | (G) Alkenyl succinic anhydride |
| P–09–0387 | 05/29/09 | 08/26/09 | Cytec Industries Inc. | (G) Polyester binding resin | (G) Epoxidized fatty acids, polymer with organic acids and alcohols compound with amine alcohol |
| P–09–0388 | 05/28/09 | 08/25/09 | Specialty Fertilizer LLC | (G) Coating of seed to provide micronutrients | (S) Butanedioic acid, 2-methylene-, polymer with 2, 5-furandione, copper (2+) manganese (2+) sodium zinc salt, hydrogen peroxide-initiated |
| P–09–0389 | 05/29/09 | 08/26/09 | CBI | (G) Curative for epoxy containing adhesives | (S) Phenol, 4,4′-[(1,1,3,3-tetramethyl-1,3-disiloxanediyl)di-2,1-ethanediyl]bis-, 1,1′-diacetate |
| P–09–0390 | 06/01/09 | 08/29/09 | CBI | (G) Raw material | (G) Substituted acrylamide |
| P–09–0391 | 06/01/09 | 08/29/09 | CBI | (G) Papermaking process aid | (G) Polyamide epichlorohydrin resin salt (PMN substances A-F) |
| P–09–0392 | 06/01/09 | 08/29/09 | CBI | (G) Papermaking process aid | (G) Polyamide epichlorohydrin resin salt (PMN substances A-F) |
| P–09–0393 | 06/01/09 | 08/29/09 | CBI | (G) Papermaking process aid | (G) Polyamide epichlorohydrin resin salt (PMN substances A-F) |
| P–09–0394 | 06/01/09 | 08/29/09 | CBI | (G) Papermaking process aid | (G) Polyamide epichlorohydrin resin salt (PMN substances A-F) |
| P–09–0395 | 06/01/09 | 08/29/09 | CBI | (G) Papermaking process aid | (G) Polyamide epichlorohydrin resin salt |
| P–09–0396 | 06/01/09 | 08/29/09 | CBI | (G) Papermaking process aid | (G) Polyamide epichlorohydrin resin salt |

I.—41 PREMANUFACTURE NOTICES RECEIVED FROM: 5/26/09 TO 6/12/09—Continued

| Case No. | Received Date | Projected Notice End Date | Manufacturer/Importer | Use | Chemical |
|---|---|---|---|---|---|
| P–09–0397 | 06/02/09 | 08/30/09 | CBI | (G) Site limited intermediate | (G) Aromatic diamine |
| P–09–0398 | 06/02/09 | 08/30/09 | CBI | (S) Anti-scaling agent for water treatment; co-builder for detergents; drilling mud additive; dispersant for solid materials in water based coatings | (G) Polyitaconic acid |
| P–09–0399 | 06/02/09 | 08/30/09 | CBI | (S) Antiscaling agent; water treatment; dispersant | (G) Itaconic acid 2-acrylamido-2-methyl-1-propanesulfonic acid copolymer |
| P–09–0400 | 06/02/09 | 08/30/09 | CBI | (G) Monomer | (G) Vinyl carboxylic acid ester |
| P–09–0401 | 06/03/09 | 08/31/09 | CBI | (S) Base resin for ultraviolet light and electron beam curable formulation | (G) Hexanedioic acid, polymer with 1,2-ethanediol and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, vinyl functionality blocked |
| P–09–0402 | 06/03/09 | 08/31/09 | CBI | (G) Surfactant / dispersants | (G) Oxoalkyl amino acid reaction product, sodium salt |
| P–09–0403 | 06/04/09 | 09/01/09 | CBI | (S) Raw material used in ultra violet curable inks and coatings | (G) Alkyd resin |
| P–09–0404 | 06/04/09 | 09/01/09 | CBI | (G) Open, non-dispersive use (water-borne coating systems | (G) Blocked non-ionic polyurethane thickener |
| P–09–0405 | 06/04/09 | 09/01/09 | CBI | (G) Open, non-dispersive use (water-borne coatings systems) | (G) Blocked non-ionic polyurethane thickener |
| P–09–0406 | 06/04/09 | 09/01/09 | CBI | (G) Open, non-dispersive use (water-borne coatings systems) | (G) Blocked non-iocnic polyurethane thickener |
| P–09–0407 | 06/04/09 | 09/01/09 | CBI | (G) Open, non-dispersive use (water-borne coatings systems) | (G) Blocked non-ionic polyurethane thickener |
| P–09–0408 | 06/04/09 | 09/01/09 | CBI | (G) Open, dispersive use (water-borne coatings systems) | (G) Blocked non-ionic polyurethane thickener |
| P–09–0409 | 06/05/09 | 09/02/09 | CBI | (G) Coatings | (G) Urethane acrylate |
| P–09–0410 | 06/05/09 | 09/02/09 | CBI | (G) Component of pesticide formulation | (G) Carbonic acid di-alkyl ester polymer with polyether polyol, alkyl isocyante and glycol ether |
| P–09–0411 | 06/05/09 | 09/02/09 | CBI | (G) Thermoset adhesive component | (S) 2-propenoic acid, 3-(5,5,6-trimethylbicyclo[2.2.1]hept-2-yl)cyclohexyl ester |
| P–09–0412 | 06/08/09 | 09/05/09 | CBI | (G) Coating additive [open/non-dispersive use] | (G) Methacrylic polymer |
| P–09–0413 | 06/08/09 | 09/05/09 | CBI | (G) Fuel additive | (G) Formaldehyde, reaction products with alkylphenol, alkylamine, phenol polyalkylene derivates |
| P–09–0414 | 06/09/09 | 09/06/09 | CBI | (G) Printing additive | (G) Polyester resin |
| P–09–0415 | 06/09/09 | 09/06/09 | CBI | (G) Component in a polyurethane adhesive / sealant | (G) Polyester / ether urethane prepolymer |
| P–09–0417 | 06/03/09 | 08/31/09 | Nanocyl Corporation, a Georgia Corporation | (S) Additive to improve electrical, thermal and / or mechanical properties of thermoplastic, thermoset and - coating materials | (S) Short tangled multi-wall carbon nanotubes obtained by catalytical chemical vapour deposition |
| P–09–0418 | 06/10/09 | 09/07/09 | CBI | (G) Destructive use | (G) Surface modified aluminum hydroxide |
| P–09–0419 | 06/10/09 | 09/07/09 | CBI | (G) Resin binder for nonwoven application | (G) Modified styrene maleic anhydride polymer |
| P–09–0420 | 06/11/09 | 09/08/09 | CIBA Corporation | (S) Reactive diluent (cut epoxy resins in, polymer building block) epoxy curing agent | (S) Oxiranem 2-[(2-propen-1-yloxy)methyl]-, manufacture of, by-products from, distillation residues |
| P–09–0421 | 06/11/09 | 09/08/09 | CBI | (G) Additive, open, non-dispersive use | (G) Polyamine adduct |
| P–09–0422 | 06/11/09 | 09/08/09 | CBI | (G) Additive, open, non-dispersive use | (G) Polyamine adduct |
| P–09–0423 | 06/11/09 | 09/08/09 | CBI | (G) Additive, open, non-dispersive use | (G) Polyamine adduct |

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II.—1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 5/26/09 TO 6/12/09

| Case No. | Received Date | Projected Notice End Date | Manufacturer/Importer | Use | Chemical |
|---|---|---|---|---|---|
| T–09–0012 | 05/29/09 | 07/12/09 | Cytec Industries Inc. | (G) Polyester binding resin | (G) Epoxidized fatty acids, polymer with organic acids and alcohols compd. with amine alcohol |

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III.—14 NOTICES OF COMMENCEMENT FROM: 5/26/09 TO 6/12/09

| Case No. | Received Date | Commencement Notice End Date | Chemical |
|---|---|---|---|
| P–00–0510 | 05/27/09 | 04/28/09 | (G) Anionic oil modified polyurethane dispersion |
| P–04–0006 | 06/05/09 | 04/30/09 | (G) Arylphosphine copper iodide |
| P–07–0460 | 06/04/09 | 05/28/09 | (G) Polyoxyethylene alkyl ether phosphate |
| P–08–0263 | 06/10/09 | 05/23/09 | (S) Ethanol, 2,2′-[[3-[(2-hydroxyethyl)amino]propyl]imino]bis-, *N*-(hydrogenated tallow alkyl) derivates |
| P–08–0547 | 06/04/09 | 06/01/09 | (G) Polyether urethane block copolymer compound with unsaturated fatty acids |
| P–08–0727 | 05/26/09 | 05/15/09 | (G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, peroxide initiated |
| P–09–0008 | 06/09/09 | 05/26/09 | (S) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with 1,3-dioxolan-2-one, 1,6-hexanediol, hydrazine, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,5-pentanediol, ethanol-amine-blocked, compounds with triisopropanolamine |
| P–09–0103 | 06/03/09 | 05/21/09 | (G) Formaldehyde, polymers with alkyl aromatic phenol, cycloaliphatic-phenol polymer glycidyl ether, epichlorohydrin and aromatic diol, acrylic cycloaliphatic carboxylates. |
| P–09–0171 | 06/08/09 | 05/19/09 | (G) Halogenated carbamyal benzoyl alkyl sulfamide |
| P–09–0182 | 06/08/09 | 05/27/09 | (G) 2-propenoic acid, 2-methyl-, polymer with ethenylbenzene, ethyl-2-propenoate, formaldehyde, 2-hydroxyethyl 2-propenoate, methyl 2-methyl-2-propenoate and substituted monoheterocycle, tert-bu2ethylhexaneperoxoate-initiated, compounds with 2(dimethylamino)ethanol |
| P–09–0184 | 06/09/09 | 05/28/09 | (G) Polyester polyurethane acrylate oligomer |
| P–09–0190 | 06/09/09 | 06/02/09 | (S) Fatty acids, $C_{18}$-unsaturated, dimers, di-me esters, hydrogenated, bis[4-(acetyloxy)benzoates] |
| P–09–0205 | 06/02/09 | 05/13/09 | (G) Quaternary ammonium compound |
| P–09–0206 | 05/28/09 | 05/20/09 | (G) Alkymethacrylate |

**List of Subjects**

Environmental protection, Chemicals, Premanufacturer notices.

Dated: July 9, 2009.

**Chandler Sirmons,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. E9–16927 Filed 7–15–09; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2009–0507; FRL–8428–4]**

## Certain New Chemicals; Receipt and Status Information

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from June 15, 2009 through July 3, 2009, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

**DATES:** Comments identified by the specific PMN number or TME number, must be received on or before August 17, 2009.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0507, by one of the following methods:

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

## I. General Information

### *A. Does this Action Apply to Me?*

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I.—44 PREMANUFACTURE NOTICES RECEIVED FROM: 6/15/09 TO 7/3/09

| Case No. | Received Date | Projected Notice End Date | Manufacturer/Importer | Use | Chemical |
|---|---|---|---|---|---|
| P–09–0424 | 06/12/09 | 09/09/09 | CBI | (G) Thermoset adhesive additive | (S) Siloxanes and silicones, di-me, bu group- and 3-[2-(3-carboxymethylene-1-oxopropoxy)ethoxy]propyl group-terminated |
| P–09–0425 | 06/15/09 | 09/12/09 | Grafil, Inc. | (S) Precursor for carbonization/production of carbon fiber | (S) 2-propenoic acid, 2-methyl-, polymer with 2-propenamide and 2-propenenitrile |
| P–09–0426 | 06/16/09 | 09/13/09 | CBI | (S) Site limited, raw material, fully consumed import only | (G) Branched and linear alcohols |
| P–09–0427 | 06/16/09 | 09/13/09 | CBI | (S) Epoxy adhesive system for production of electronic waters | (G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2-(chloromethyl)oxirane, reaction products with dithiol |
| P–09–0428 | 06/18/09 | 09/15/09 | CBI | (G) Coating component | (G) Mixed metal oxide complex |
| P–09–0429 | 06/18/09 | 09/15/09 | CBI | (G) Open-non-dispersive uses | (G) Silylated polymer |
| P–09–0430 | 06/18/09 | 09/15/09 | Spectra Colors Corporation | (G) Dye for washable ink systems | (G) Polymeric monoazo compound |
| P–09–0431 | 06/18/09 | 09/15/09 | Spectra Colors Corporation | (G) Dye for washable ink systems | (G) Polymeric monoazo compound |
| P–09–0432 | 06/18/09 | 09/15/09 | Spectra Colors Corporation | (G) Dye for washable ink systems | (G) Polymeric monoazo triphenylmethane |
| P–09–0433 | 06/18/09 | 09/15/09 | Spectra Colors Corporation | (G) Dye for washable ink systems | (G) Polymeric triphenylmethane |
| P–09–0434 | 06/19/09 | 09/16/09 | Firmenich Inc. | (S) Aroma for use in fragrance mixtures, which in turn are used in perfumes, soaps, cleansers, etc. | (S) 7-octen-4-one, 2,6-dimethyl- |
| P–09–0435 | 06/19/09 | 09/16/09 | Mane, USA | (G) Perfumery ingredient | (S) 6,8-dimethyl-7-nonenal |
| P–09–0436 | 06/19/09 | 09/16/09 | CBI | (G) Lubricant additive | (G) 2-propenoic acid, 2-methyl-, $C_{12-15}$-branched and linear alkyl esters, telomers with alkyl 2-[[(alkylthio)thioxomethyl]thio]-2-alkanoate, aminoalkyl methacrylate and alkyl methacrylate, tert-bu 2-ethylhexanoperoxoate-initiated |
| P–09–0437 | 06/19/09 | 09/16/09 | Cytec Industries Inc. | (G) Binding resin | (G) Fatty acids, polymers with substituted carbocycles, alkyldiol, alkylaldehyde, substituted heterocycle, substituted alkyldiol, polymd. modified oil and resin acids, carboxymethyl ethers compounds with substituted alcohol. |
| P–09–0438 | 06/19/09 | 09/16/09 | Cytec Industries Inc. | (G) Binding resin | (G) Fatty acids, polymers with substituted carbocycles, alkyldiol, alkylaldehyde, substituted heterocycle, substituted alkyldiol, polymd. modified oil and resin acids, carboxymethyl esters compounds with substituted alcohol. |
| P–09–0439 | 06/19/09 | 09/16/09 | CBI | (S) Metal pre-treatment; coating formulations; filler treatment | (G) Silicones, aminomodified, hydroformiates |
| P–09–0440 | 06/22/09 | 09/19/09 | CBI | (G) Unsaturated polyester resin for filled and fiber reinforced composites | (G) Unsaturated polyester resin |
| P–09–0441 | 06/23/09 | 09/20/09 | CBI | (G) Blocked polyurethane prepolymer for heat curing metal assembly. | (G) Blocked polyurethane prepolymer |
| P–09–0442 | 06/25/09 | 09/22/09 | CBI | (G) Used in the manufacture of polyurethane foam | (G) Organomodified silanic hydrogen fluid |
| P–09–0443 | 06/25/09 | 09/22/09 | CBI | (G) Used in the manufacture of polyurethane foam | (G) Modified silicone polyether copolymer |

I.—44 PREMANUFACTURE NOTICES RECEIVED FROM: 6/15/09 TO 7/3/09—Continued

| Case No. | Received Date | Projected Notice End Date | Manufacturer/Importer | Use | Chemical |
|---|---|---|---|---|---|
| P–09–0444 | 06/25/09 | 09/22/09 | Wacker Chemical Corporation | (S) Unprotonated polymer: chemical intermediate; protonated polymer textile softener | (G) Unprotonated polymer: polydimethylsiloxane hydroxyalkyl terminate, polymers with diisocyanate and aminoalkyl groups aliphatic amine blocked; protonated polymer: polydimethylsiloxane hydroxyalkyl terminated, polymers with diisocyanate and aminoalkyl groups aliphatic amine blocked, acetates |
| P–09–0445 | 06/25/09 | 09/02/09 | Wacker Chemical Corporation | (S) Unprotonated polymer: chemical intermediate; protonated polymer textile softener | (G) Unprotonated polymer: polydimethylsiloxane hydroxyalkyl terminate, polymers with diisocyanate and aminoalkyl groups aliphatic amine blocked; protonated polymer: polydimethylsiloxane hydroxyalkyl terminated, polymers with diisocyanate and aminoalkyl groups aliphatic amine blocked, acetates |
| P–09–0446 | 06/22/09 | 09/19/09 | Weylchem US Inc. | (G) Intermediate | (G) Toluene halo alkyl sulfo derivative sodium salt |
| P–09–0447 | 06/24/09 | 09/21/09 | CBI | (G) Processin aid | (G) Sodium olefin sulfonate derivative |
| P–09–0448 | 06/24/09 | 09/21/09 | CBI | (G) Processin aid | (G) Sodium olefin sulfonate derivative |
| P–09–0449 | 06/24/09 | 09/21/09 | Eastman Chemical Company | (G) Chemical intermediate | (S) 1,4-cyclohexanedicarboxylic acid, trans- |
| P–09–0450 | 06/25/09 | 09/22/09 | Ricoh Americas Corporation | (S) For use in copy machine developer | (G) Methyl methacrylate silyn siloxy methacrylate terpolymer |
| P–09–0451 | 06/25/09 | 09/22/09 | CBI | (G) Dispersion additive | (G) Butanamide, *N*-[substituted phenyl]-[(alkoxynitrophenyl)diazenyl]-3-oxo- |
| P–09–0452 | 06/29/09 | 09/26/09 | Oil Chem Technologies, Inc. | (S) Intermediate for oil recovery surfactant | (S) 13-decosen-1-amine, *N*, *N*-dimethyl-(13*Z*)- |
| P–09–0453 | 06/30/09 | 09/27/09 | CBI | (G) Adhesive Component | (G) Urethane prepolymer |
| P–09–0454 | 06/30/09 | 09/27/09 | CBI | (G) Dispersive use for solventborne coatings systems | (G) Polyurethane |
| P–09–0455 | 06/30/09 | 09/27/09 | The Dow Chemical Company | (S) Intermediate | (G) Ferrate (4-) [heteropolycycle]-ammonium compound |
| P–09–0456 | 06/30/09 | 09/27/09 | The Dow Chemical Company | (S) Intermediate | (G) Sulfo-substituted metal heteropolycycle-mixed sodium salt |
| P–09–0459 | 06/29/09 | 09/26/09 | CBI | (G) Polyurethane foam catalyst | (G) Amine carboxylate |
| P–09–0460 | 06/29/09 | 09/26/09 | CBI | (G) Polyurethane foam catalyst | (G) Amine carboxylate |
| P–09–0461 | 06/29/09 | 09/26/09 | CBI | (G) Polyurethane foam catalyst | (G) Amine carboxylate |
| P–09–0462 | 06/29/09 | 09/26/09 | CBI | (G) Polyurethane foam catalyst | (G) Amine carboxylate |
| P–09–0463 | 06/30/09 | 09/27/09 | CBI | (G) Specialty additive contained in an article | (G) Salt of polymer of methylenebis [isocyanatocarbomonocycle], alkanepolyols and amine derivatives |
| P–09–0464 | 06/29/09 | 09/26/09 | CBI | (G) Contained use in energy production | (G) Ether amine phosphonate salt |
| P–09–0465 | 06/29/09 | 09/26/09 | CBI | (G) Contained use in energy production | (G) Ether amine phosphonate salt |
| P–09–0466 | 06/29/09 | 09/26/09 | CBI | (G) Contained use in energy production | (G) Ether amine phosphonate salt |
| P–09–0467 | 06/29/09 | 09/26/09 | CBI | (G) Contained use in energy production | (G) Ether amine phosphonate salt |
| P–09–0468 | 06/29/09 | 09/26/09 | CBI | (G) Contained use in energy production | (G) Ether amine phosphonate salt |
| P–09–0469 | 06/29/09 | 09/26/09 | CBI | (G) Contained use in energy production | (G) Ether amine phosphonate salt |

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II.—2 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 6/15/09 TO 7/3/09

| Case No. | Received Date | Projected Notice End Date | Manufacturer/Importer | Use | Chemical |
|---|---|---|---|---|---|
| T–09–0013 | 06/19/09 | 08/02/09 | Cytec Industries Inc. | (G) Binding resin | (G) Fatty acids, polymers with substituted carbocycles, alkyldiol, alkyladehyde, substituted heterocycle, substituted alkyldiol, polymd. modified oil and resin acids, carboxymethyl esters compounds with substituted alcohol. |
| T–09–0014 | 06/19/09 | 08/02/09 | Cytec Industries Inc. | (G) Binding resin | (G) Fatty acids, polymers with substituted carbocycle, alkyldiol, alkylaldehyde, substituted heterocycle, substituted alkyldiol, polymd. modified oil and resin acids, carboxymethyl ethers compds. with substituted alcohol. |

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III.—9 NOTICES OF COMMENCEMENT FROM: 6/15/09 TO 7/3/09

| Case No. | Received Date | Commencement Notice End Date | Chemical |
|---|---|---|---|
| P–04–0395 | 06/17/09 | 06/08/09 | (G) Water soluble polymer dispersion |
| P–06–0349 | 06/16/09 | 05/28/09 | (G) Fatty acid polymer with aliphatic diol and aromatic diacid |
| P–07–0303 | 06/23/09 | 05/25/09 | (G) 2-propenoic acid, 1,1′-[2,2-bis(hydroxymethyl)-1,3-propanediyl] ester, polymer with multifunctional isocyanate,pentaerythritol triacrylate-blocked |
| P–08–0446 | 06/18/09 | 06/01/09 | (G) Poly(oxyalkylene) azo benzamide |
| P–08–0523 | 06/23/09 | 05/21/09 | (G) TDI polyester polypropylene ethylene copolymer |
| P–08–0751 | 06/22/09 | 06/06/09 | (G) Fluorinated acrylic copolymer |
| P–09–0110 | 06/16/09 | 05/12/09 | (G) Alkyl ammonium tungstate complex |
| P–09–0192 | 06/16/09 | 06/10/09 | (S) 1. 1,2,4,5-benzenetetracarboxylic acid, 1,4-bis[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]-1-[[(2-methyl-1-oxo-2-propen-1-yl)oxy]methyl]ethyl] ester. (S) 2. 1,2,4,5-benzenetetracarboxylic acid, 1,5-bis[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]-1-[[(2-methyl-1-oxo-2-propen-1-yl)oxy]methyl]ethyl] ester. |
| P–09–0203 | 06/15/09 | 05/20/09 | (G) Unsaturated urethane methacrylate |

**List of Subjects**

Environmental protection, Chemicals, Premanufacturer notices.

Dated: July 9, 2009.

**Chandler Sirmons,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. E9–16928 Filed 7–15–09; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8932–1]**

## Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of a Public Advisory Committee Teleconference of the CASAC Oxides of Nitrogen Primary NAAQS Review Panel

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee's (CASAC) Oxides of Nitrogen Primary NAAQS Review Panel (Panel) to provide comments concerning EPA's proposed revisions to the National Ambient Air Quality Standards for nitrogen dioxide.

**DATES:** The teleconference will be held on Monday, August 10, 2009 from 1 p.m. to 4 p.m. (Eastern Daylight Time).

**ADDRESSES:** The public teleconference will be conducted by telephone only.

**FOR FURTHER INFORMATION CONTACT:** Members of the public who wish to obtain the call-in number and access code to participate in the teleconference may contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9981; fax (202) 233–0643; or e-mail at *nugent.angela@epa.gov.* General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/casac.*

**SUPPLEMENTARY INFORMATION:**

*Background:* Pursuant to the Federal Advisory Committee Act, Public Law 92–463 5 U.S.C., App. 2 (FACA), notice is hereby given that the CASAC Oxides of Nitrogen Primary National Ambient Air Quality Standards (NAAQ) Review Panel will hold a public teleconference to provide comments concerning EPA's announced plans to propose revisions to National Ambient Air Quality Standards for nitrogen dioxide. The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information, and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including oxides of nitrogen. The CASAC Oxides of Nitrogen Primary NAAQS Review Panel has provided advice and review of key technical documents associated with EPA's reassessment of the NAAQS for oxides of nitrogen, including the Agency's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria* and *Risk and Exposure Assessment to Support the Review of the $NO_2$ Primary National Ambient Air Quality Standard.* The public may access completed CASAC advisory reports related to the primary NAAQS review of oxides of nitrogen at the CASAC site at *http://yosemite.epa.gov/sab/sabproduct.nsf/WebReportsbyTopicCASAC!OpenView.*

On June 29, 2009, EPA announced proposed revisions to the NAAQS for nitrogen dioxide ($NO_2$), the indicator chosen for oxides of nitrogen. The proposed revisions for $NO_2$ can be found on the EPA Web site at *http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr_fr.html.* Primary standards set limits to protect public health, including the health of ''sensitive'' populations such as asthmatics, children, and the elderly.

The purpose of the public teleconference meeting on August 10, 2009 is for the CASAC Panel to provide comments concerning the proposed revisions of the primary NAAQS for $NO_2$.

*Technical Contact:* Any questions concerning the Agency's proposed rule for the revision of the NAAQS for lead should be directed to Dr. Scott Jenkins, OAR (by telephone (919) 541–1167 or e-mail *jenkins.scott@epa.gov*).

*Availability of Meeting Materials:* The draft agenda and other materials for the public teleconference of the CASAC Panel will be posted on the CASAC's Web site at *http://www.epa.gov/casac* prior to the meetings.

*Procedures for Providing Public Input:* Interested members of the public may submit relevant written or oral information for the CASAC Panel to consider during the advisory process. *Oral Statements:* Interested members of the public may submit relevant written or oral information for the SAB Panel to consider during the advisory process. In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) by August 5, 2009 at the contact information noted above to be placed on the public speaker list for this meeting. *Written Statements:* Written statements for the public meeting should be received by Dr. Angela Nugent at the contact information above by August 5, 2009, so that the information may be made available to the Panel for their consideration prior to the teleconference. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature (optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

*Accessibility:* For information on access or services for individuals with disabilities, please contact Dr. Nugent at the phone number or e-mail address noted above, preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: July 10, 2009.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

[FR Doc. E9–16931 Filed 7–15–09; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8931–9]**

## Proposed Agreement Regarding Site Work, Site Costs, Site Access, and Covenants Not To Sue for the Evening Star Mine Site, Boulder County, CO

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed agreement; request for public comment.

**SUMMARY:** In accordance with the requirements of section 122(h)(1) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(h)(1), notice is hereby given of the proposed administrative settlement under section 122(h) of CERCLA, 42 U.S.C. 9622(h) between the U.S. Environmental Protection Agency (''EPA'') and The County of Boulder (The Settling Party). The Settling Party consents to and will not contest the authority of the United States to enter into this Agreement or to implement or enforce its terms. In return, the Settling Party will receive Covenants Not to Sue from EPA. The EPA alleges that the Settling Party is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), and is jointly and severally liable for response costs incurred and to be incurred at or in connection with the Site.

The Settling Party agrees to perform work at the Site. The work to be implemented generally includes, but is not limited to, removing a road that was installed to access the Site, adding rip-rap material below waste rock impoundments, securing the Site, maintaining the soil cover and vegetation of the re-graded waste rock areas, and to take over operation and maintenance of the Site. The Settling Party also will pay within 30 days after the effective date of this Proposed Agreement $193,572.52 for Site Past Response Costs. EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations. This covenant not to sue is conditioned upon the satisfactory performance by the Settling Party of their obligations under this Agreement. The Settling Party recognizes that this Agreement has been negotiated in good faith and that this Agreement is entered into without the admission or adjudication of any issue of fact or law.

**DATES:** Comments must be submitted on or before August 17, 2009. For thirty

(30) days following the date of publication of this notice, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

**ADDRESSES:** The Agency's response to any comments, the proposed agreement and additional background information relating to the agreement is available for public inspection at the EPA Superfund Record Center, 1595 Wynkoop Street, Denver, Colorado. Comments and requests for a copy of the proposed agreement should be addressed to Michael Rudy, Enforcement Specialist, Environmental Protection Agency—Region 8, Mail Code 8ENF–RC, 1595 Wynkoop Street, Denver, Colorado 80202–1129, and should reference the Evening Star Mine Site, Boulder County.

**FOR FURTHER INFORMATION CONTACT:** Michael Rudy, Enforcement Specialist, Environmental Protection Agency, Region 8, Mail Code 8ENF–ENF, at the above address, (303) 312–6332.

Dated: July 8, 2009.

**Kelcey Land,**

*Acting Director, Technical Enforcement Program, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129.*

[FR Doc. E9–16933 Filed 7–15–09; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System

**SUMMARY:** *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR Part 1320 Appendix A.1. 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 instruments 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.

**Request for Comment on Information Collection Proposals**

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Comments must be submitted on or before September 14, 2009.

**ADDRESSES:** You may submit comments, identified by FR 2900, FR 2910a, FR 2915, FR 2930, FR 3052, or FR 3053 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 OMB control 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 form 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.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Cynthia Ayouch, Federal Reserve Board Acting Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

*Proposal to approve under OMB delegated authority the extension for three years, without revision of the following reports:*

1. *Report title:* Report of Transaction Accounts, Other Deposits and Vault Cash.

*Agency form number:* FR 2900.

*OMB control number:* 7100–0087.

*Frequency:* Weekly, quarterly.

*Reporters:* Depository institutions.

*Estimated annual reporting hours:* 598,738 hours.

*Estimated average time per response:* 3.50 hours.

*Number of respondents:* 2,914 weekly and 4,885 quarterly.

*General description of report:* This information collection is mandatory (12 U.S.C. 248(a), 461, 603, and 615) and is given confidential treatment (5 U.S.C. 552(b)(4)).

*Abstract:* Institutions with net transaction accounts greater than the

exemption amount are called nonexempt institutions. Institutions with total transaction accounts, savings deposits, and small time deposits greater than or equal to the reduced reporting limit, regardless of the level of their net transaction accounts, are also referred to as nonexempt institutions. Nonexempt institutions submit FR 2900 data either weekly or quarterly. An institution is required to report weekly if its total transaction accounts, savings deposits, and small time deposits are greater than or equal to the nonexempt deposit cutoff. If the nonexempt institution's total transaction accounts, savings deposits, and small time deposits are less than the nonexempt deposit cutoff, then the institution must report quarterly. U.S. branches and agencies of foreign banks and banking Edge and agreement corporations submit the FR 2900 data on a weekly basis, regardless of their size. These mandatory data are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates.

2. *Report title:* Annual Report of Deposits and Reservable Liabilities.

*Agency form number:* FR 2910a.

*OMB control number:* 7100–0175.

*Frequency:* Annually.

*Reporters:* Depository institutions.

*Annual reporting hours:* 3,605 hours.

*Estimated average time per response:* 45 minutes.

*Number of respondents:* 4,807.

*General description of report:* This information collection is mandatory (12 U.S.C. 248(a), and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

*Abstract:* The FR 2910a is an annual report generally filed by depository institutions that are exempt from reserve requirements under the Garn-St Germain Depository Institutions Act of 1982 and whose total deposits, measured from depository institutions' December quarterly condition reports, are greater than the exemption amount but less than the reduced reporting limit. The report contains three data items that are to be submitted for a single day, June 30: (1) Total transaction accounts, savings deposits, and small time deposits; (2) reservable liabilities; and (3) net transaction accounts. The data collected on this report serves two purposes. First, the data are used to determine which depository institutions will remain exempt from reserve requirements and consequently eligible for reduced reporting for another year. Second, the data are used in the annual indexation of the low reserve tranche, the exemption amount, the nonexempt deposit cutoff, and the reduced reporting limit. These mandatory data are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates.

3. *Report title:* Report of Foreign (Non-U.S.) Currency Deposits.

*Agency form number:* FR 2915.

*OMB control number:* 7100–0237.

*Frequency:* Quarterly.

*Reporters:* Depository institutions.

*Annual reporting hours:* 230 hours.

*Estimated average time per response:* 30 minutes.

*Number of respondents:* 115.

*General description of report:* This information collection is mandatory (12 U.S.C. 248(a)(2) and 347(d)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

*Abstract:* All FR 2900 respondents, both weekly and quarterly, that offer deposits denominated in foreign currencies at their U.S. offices file the FR 2915. FR 2915 data are used to remove foreign currency deposits from aggregated FR 2900 data in constructing the monetary aggregates. All weekly and quarterly FR 2900 respondents offering foreign currency deposits file the FR 2915 quarterly, on the same reporting schedule as quarterly FR 2900 respondents. The FR 2915 is the only source of data on such deposits.

4. *Report title:* Allocation of Low Reserve Tranche and Reservable Liabilities Exemption.

*Agency form number:* FR 2930.

*OMB control number:* 7100–0088.

*Frequency:* Annually and on occasion.

*Reporters:* Depository institutions.

*Annual reporting hours:* 33 hours.

*Estimated average time per response:* 15 minutes.

*Number of respondents:* 133.

*General description of report:* This information collection is mandatory (12 U.S.C. 248(a), 461, 603, and 615) and is given confidential treatment (5 U.S.C. 552(b)(4)).

*Abstract:* The FR 2930 provides information on the allocation of the low reserve tranche and the reservable liabilities exemption for depository institutions with offices in more than one State or Federal Reserve District or for those operating under operational convenience. For calculation of required reserves on net transaction accounts, there is a low reserve tranche within which deposits are reserved at a lower reserve requirement ratio than are amounts in excess of the low reserve tranche. Within the low reserve tranche, deposits under the reservable liabilities exemption amount are reserved at zero. All U.S. offices of the same parent depository institution share one low reserve tranche and one reservable liabilities exemption. This report provides the basis for allocating these amounts across separate reporting offices.

Proposal to approve under OMB delegated authority the implementation of the following reports:

1. *Report title:* Supervisory and Regulatory Survey.

*Agency form number:* FR 3052.

*OMB control number:* 7100—to be assigned.

*Frequency:* On occasion.

*Reporters:* Financial businesses.

*Estimated annual reporting hours:* 60,000 hours.

*Estimated average time per response:* 30 minutes.

*Estimated number of respondents:* 5,000.

*General description of report:* This information collection is authorized pursuant to the: Federal Reserve Act, Sections 2A, 9, 12A, 25, and 25A (12 U.S.C. 225a, 324, 263, 602, and 625); Bank Holding Company Act, Section 5(c) (12 U.S.C. 1844(c)); International Banking Act of 1978, Section 7(c)(2) (12 U.S.C. 3105(c)(2)); and Federal Deposit Insurance Act, Section 7(a) (12 U.S.C. 1817(a)). Generally, respondent participation is voluntary. However, with respect to collections of information from state member banks, bank holding companies (and their subsidiaries), Edge and agreement corporations, and U.S. branches and agencies of foreign banks supervised by the Federal Reserve, the Federal Reserve could make the surveys mandatory. The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 3052 surveys would be determined on a case-by-case basis depending on the type of information provided for a particular survey. Depending upon the survey questions, confidential treatment could be warranted under subsections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act. 5 U.S.C. 552(b)(4), (6), and (8).

*Abstract:* The supervision and policy functions of the Federal Reserve have occasional need to gather data on an ad-hoc basis from the banking and financial industries on their financial condition (outside of the standardized regulatory reporting process) to respond to changes in economic or other factors. Further, the data may relate to a particular business activity that requires a more detailed presentation of the information than is available through regulatory

reports [such as the (FFIEC 031 and FFIEC 041; OMB No. 7100–0036) (FFIEC 002; OMB No. 7100–0032) (FR 2886b; OMB No. 7100–0086) and the (FR Y–9C; OMB No. 7100–0128]. These data may be particularly needed in times of critical economic or regulatory changes or when issues of immediate supervisory concern arise from Federal Reserve supervisory initiatives and working groups or requests from Board Members and the Congress. The Federal Reserve would use this event-driven survey to obtain information specifically tailored to the Federal Reserve's supervisory, regulatory, operational, and other responsibilities. The Federal Reserve proposes to conduct the FR 3052 up to 24 times per year. The frequency and content of the questions would depend on changing economic, regulatory, or legislative developments.

2. *Report title:* Consumer Protection Surveys.

*Agency form number:* FR 3053.

*OMB control number:* 7100—to be assigned.

*Frequency:* On occasion.

*Reporters:* Consumers, households, and financial and non-financial businesses.

*Estimated annual reporting hours:* 6,550 hours.

*Estimated average time per response:*

*Consumer studies:* Quantitative and general studies, .5 hours; financial institution consumers, .5 hours; qualitative studies, 1.5 hours;

*Financial institution study:* Financial institution staff, 1.5 hours; and

*Stakeholder studies:* Stakeholder clientele, .5 hours; stakeholder staff, 1.5 hours.

*Estimated number of respondents:*

*Consumer studies:* Quantitative and general studies, 2,000; financial institution consumers, 500; qualitative studies, 100;

*Financial institution study:* Financial institution staff, 25; and

*Stakeholder studies:* Stakeholder clientele, 500; stakeholder staff, 100.

*General description of report:* This information collection is authorized pursuant to the: Home Mortgage Act, Section 806 (12 U.S.C. 2804(a)); Community Reinvestment Act, Section 806 (12 U.S.C. 2905); Competitive Equality Banking Act, Section 1204 (12 U.S.C. 3806); Expedited Funds Availability Act, Section 609 (12 U.S.C. 4008); Truth in Saving Act, Section 269 (12 U.S.C. 4308); Federal Trade Commission Act, Section 18(f) (15 U.S.C. § 57a(f)); Truth in Lending Act, Section 105 (15 U.S.C. 1604); Mortgage Disclosure Improvement Act, Sections 2501 through 2503 of the Housing and Economic Recovery Act of 2008 (15 U.S.C. 1638(b)(2)); Higher Education Opportunity Act of 2008, Section 1021(a) (15 U.S.C. 1638(e)(5)); Consumer Leasing Act of 1976, Section 1021(a)(15 U.S.C. 1667f); Fair Credit Reporting Act, Section 621 (15 U.S.C. 1681s(e)); Equal Credit Opportunity Act, Section 703 (15 U.S.C. 1691b(a)); Electronic Funds Transfer Act, Section 904 (15 U.S.C. 1693b); Gramm-Leach-Bliley Act, Section 504 (15 U.S.C. 6804); and Flood Disaster Protections Act of 1973, Section 102 (42 U.S.C. 4012a). Respondent participation in these surveys is voluntary. The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 3053 surveys will be determined on a case-by-case basis depending on the type of information provided for a particular survey. Depending upon the survey questions, confidential treatment could be warranted under the Freedom of Information Act. 5 U.S.C. 552(b)(4) and (6).

*Abstract:* The Federal Reserve would use this event-driven survey to obtain information specifically tailored to the Federal Reserve's supervisory, regulatory, operational, informational, and other responsibilities. This survey would gather qualitative and quantitative information directly from: Consumers (consumer studies), financial institutions and other financial companies offering consumer financial products and services (financial institution study), and other stakeholders, such as State or local agencies, community development organizations, brokers, appraisers, settlement agents, software vendors, and consumer groups (stakeholder studies). The Federal Reserve proposes to conduct the FR 3053 up to 20 times per year. The frequency and content of the questions would depend on changing economic, regulatory, or legislative developments.

Board of Governors of the Federal Reserve System, July 13, 2009.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. E9–16911 Filed 7–15–09; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 31, 2009.

**A. Federal Reserve Bank of Richmond** (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

*1. The Haga Family Revocable Trust, Phillip Blair Haga and Betty Jane Haga, Trustees*, both of Jacksonville, Florida; to retain voting shares of Pioneer Community Group, Inc., and thereby indirectly retain voting shares of Pioneer Community Bank, both of Iaeger, West Virginia.

Board of Governors of the Federal Reserve System, July 13, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9–16907 Filed 7–15–09; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL MARITIME COMMISSION

**[Docket No. 09–03]**

### Naveena Exports, Ltd. v. Go-Trans, Inc.; Erratum

Served July 13, 2009.

In the Notice of Complaint and Assignment in Docket 09–03, served July 7, 2009 and appearing in the **Federal Register** on July 13, 2009 (74 FR 33441–33442), the next-to-last sentence of the first paragraph is corrected to read, ''Complainant states that Respondent has agreed not to contest this Complaint in order to allow Complainant to secure the release of FMC Bond No. 18084F, in partial payment of the total damages incurred by Complainant.''

**Karen V. Gregory,**

*Secretary.*

[FR Doc. E9–16949 Filed 7–15–09; 8:45 am]

BILLING CODE 6730–01–P

## FEDERAL MARITIME COMMISSION

### Meetings; Sunshine Act

**AGENCY HOLDING THE MEETING:** Federal Maritime Commission.

**Federal Register** *Citation of Previous Announcement:* 74 FR 32934 (July 9, 2009)

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** July 14, 2009—10 a.m.

**CHANGE:** Withdrawal of Item 3 in the Closed Session.

**CONTACT PERSON FOR MORE INFORMATION:** Karen V. Gregory, Secretary, (202) 523–5725.

**Karen V. Gregory,**

*Secretary.*

[FR Doc. E9–16961 Filed 7–14–09; 11:15 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; Comment Request; Program Review of the Division of Acquired Immunodeficiency Syndrome Policy Implementation Program

**AGENCY:** National Institutes of Health (NIH).

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Allergy and Infectious Diseases (NIAID), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget OMB for review and approval.

*Proposed Collection: Title:* Review of the DAIDS. Policy Implementation Program (DPIP) .

*Type of Information Collection Request:* New. *Need and Use of Information Collection:* The program review of the Division of AIDS (DAIDS) Implementation Program DPIP), is to be conducted over a three-year period, and it will provide feedback to aid in the understanding of the target population's knowledge, attitudes, and perceptions of the DAIDS Policy Implementation Program (DPIP). The target population is classified as Extramural Researchers (ERs), who are recipients of funding from DAIDS to conduct and review research. This target population is comprised of Site Leaders of Clinical Research Sites (CRSs) and Research Networks and Clinical Site Monitors of the CTUs and CRSs. The researchers are located globally, and may be part of more than one DAIDS funded research study and/or network. The DPIP is built upon four goals of awareness and accessibility, understandability, applicability, and harmonization of the policies and procedures. The review is to determine DPIP's progression to fulfillment of its program goals. The results of the review will provide DAIDS' Policy, Training, and Quality Assurance Branch (PTQAB) with information to guide optimal deployment of clinical research policies and procedures intended to harmonize, standardize and improve DAIDS funded/sponsored research. The program review will help derive an understanding of whether the DPIP program is implemented and functioning as intended to meet its program goals. The *Estimated number* of respondent is 392. *Frequency of Response:* Web-based survey; annually (once a year). Focus Group; one time. *Affected Public:* Extramural Researchers *Type of Respondents:* Adult professionals. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

The annual reporting burden is provided below:

| Type of respondents | Data collection instrument | Estimated frequency of response | Estimated average time per response | Estimated annual hour burden |
|---|---|---|---|---|
| Extramural Researchers | Survey | 3 | 1 | 392 |
| Extramural Researchers | Focus Groups | 1 | 2 | 261 |

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Dione Washington, Policy, Training, and Quality Assurance Branch, National Institute of Allergy and Infectious Diseases, NIH, 6700B Rockledge Drive, MSC 7620, Bethesda, MD 20892–7620 United States of America; or E-mail your request, including your address to: *washingtondi@niaid.nih.gov.*

*Comments Due Date:* Written comments and recommendations for the proposed data collection must be mailed within 60 days of this notice.

Dated: July 9, 2009.

**Judith Brooks,**

*Chief, Policy, Training, and Quality Assurance Branch, NIAID, National Institutes of Health.*

[FR Doc. E9–16832 Filed 7–15–09; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; Comment Request; Evaluation of the NIAID HIV Vaccine Research Education Initiative

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Allergy and Infectious Diseases (NIAID), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**PROPOSED COLLECTION:** *Title:* Evaluation of the NIAID HIV Vaccine Research Education Initiative. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* Developing a vaccine that protects against HIV infection is one of NIAID's highest priorities. To address the need for volunteers in HIV vaccine clinical trials, and enable NIAID to fulfill its Congressional mandate to prevent infectious diseases like HIV/AIDS, NIAID created the NIAID HIV Vaccine Research Education Initiative (NHVREI). The goal of NHVREI is to increase knowledge about and support for HIV vaccine research among U.S. populations most heavily affected by HIV/AIDS—in particular, African Americans, Hispanics/Latinos, men who have sex with men (MSM), women and youth, recognizing the intersection of these groups.

The NHVREI program objectives include (1) Increasing awareness of the need for an HIV vaccine in communities most affected and infected by HIV/AIDS, (2) Improving the public's knowledge of and attitudes toward HIV

vaccine research, (3) Enhancing the partnership between community and HIV clinical trial researchers, and (4) Creating support for current and future HIV vaccine trials and fostering an environment that supports clinical trial volunteers.

To determine if the strategies used to meet these objectives were successful, it is necessary to measure the effectiveness of initiative elements. Specifically, the evaluation will assess (a) implementation of NHVREI (*i.e.,* process evaluation) and (b) impact (*i.e.,* outcomes evaluation) of NHVREI on awareness of, knowledge about, and support for HIV vaccine research among NHVREI primary audiences (*i.e.,* partner organizations, key influencers) that work with target populations. The ultimate goal of evaluation planning and implementation is to determine what components/strategies of NHVREI are effective and impact desired outcomes, so that these components/strategies can be continued, enhanced, and/or expanded if needed.

Evaluation will be conducted through several processes including a survey and multiple focus groups. A survey will be conducted with key influencers of the NHVREI target populations to measure their level of awareness, knowledge about, and support for HIV vaccine research.

Focus groups will also be conducted with representatives of organizations receiving grants through the NHVREI Local Partnership Program (LPP) and National Partnership Program (NPP), as well as representatives from a broader group of organizations called the NHVREI Network. The LPP and NPP are organizations that are funded to raise awareness about HIV vaccine research at either the local or national level. The planned NHVREI network will be composed of leadership organizations and coalitions that are either influencers of or provide information services to the target populations. The purpose of conducting focus groups with LPP, NPP, and NHVREI Network representatives is to obtain data on their experience implementing NHVREI activities. Questions asked during the group discussions will address efforts implementing educational activities and developing materials, community partnerships developed, engagement of key influencers in program activities, and the types of media outreach and capacity building engaged in. *Frequency of Response:* Twice. *Affected Public:* Individuals. *Type of Respondents:* Key influencers of target populations. The annual reporting burden is shown in the table below. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

| Type of respondents | Form name | Estimated number of respondents | Noumber of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|---|
| | Time 1 | | | | |
| LPP, NPP, and NHVREI Network | Focus Groups | 78 | 1 | 1 | 78 |
| Key Influencers | Survey | 656 | 1 | 0.33 | 216 |
| | Total Time 1 | 734 | | | 294 |
| | Time 2 | | | | |
| LPP, NPP, and NHVREI Network | Focus Groups | 78 | 1 | 1 | 78 |
| Key Influencers | Survey | 590 | 1 | 0.33 | 195 |
| | Total Time 2 | 668 | | | 273 |
| | Total Time 1 & Time 2 | 1,402 | | | 567 |

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Katharine Kripke, Assistant Director, Vaccine Research Program, Division of AIDS, NIAID, NIH, 6700B Rockledge Dr., Bethesda, MD 20892–7628, or call non-toll-free number 301–402–0846, or E-mail your request, including your address to *kripkek@niaid.nih.gov.*

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: July 9, 2009.

**John J. McGowan,**

*Deputy Director for Science Management, NIAID, National Institutes of Health.*

[FR Doc. E9–16834 Filed 7–15–09; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission to OMB, Comment Request; An Outcome Evaluation of the NIH Director's Pioneer Award (NDPA) Program

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director, National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. 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:* An Outcome Evaluation of the NIH Director's Pioneer Award (NDPA) Program. *Type of Information Collection Request:* New collection. *Need and Use of Information Collection:* This study will assess the NDPA Program outputs and outcomes. The primary objectives of the study are to assess: (1) Whether the NDPA awardees are conducting pioneering research, (2) whether there are spillover effects on the awardees, their lab members, NIH, and the scientific community, and (3) to follow the careers and ideas proposed by NDPA unfunded applicants. The findings will provide valuable information concerning the success of the awardees (pioneers) and whether the characteristics of the NDPA program are adopted by other NIH programs.

*Frequency of Response:* Once. *Affected Public:* none. *Type of Respondents:* Applicants, Unfunded Applicants, Pioneer Lab Members, Focus Group Panelists. There are no Capital Costs to report. *Estimated Number of Respondents:* 50, *Estimated Number of Responses per Respondent:* 1: *Average Burden Hours Per Response:* 2.14 (60 minutes for awardees, 15 minutes for unfunded applicants, 30 minutes for pioneer lab members, and 10 hours for focus group panelists). *Estimated Total Annual Burden Hours Requested:* 284.5 and the annualized cost to respondents is estimated at $18,181.72. Table l and Table 2, respectively, present data concerning the burden hours and cost burdens for this data collection.

TABLE 1—ANNUALIZED ESTIMATE OF HOUR BURDEN

| Type of respondents | Number of respondents | Frequency of response | Average time for response (hr) | Total hour burden* |
|---|---|---|---|---|
| Awardees (Pioneers) | 22 | 1 | 1.0 | 22.0 |
| Unfunded Applicants | 440 | 1 | 0.25 | 110.0 |
| Pioneer Lab Members | 25 | 1 | 0.5 | 12.5 |
| Expert Panel | 14 | 1 | 10.0 | 140.0 |
| Total | 501 | 1 | .56 | 284.5 |

Total Burden = N Respondents*Response Frequency*(minutes to complete/60).

TABLE 2—ANNUALIZED COST TO RESPONDENTS

| Type of respondents | Number of respondents | Response frequency | Approx. hourly wage rate | Total respondent cost** |
|---|---|---|---|---|
| Awardees | 22 | 1 | $64.72 | $1,423.84 |
| Unfunded Applicants | 440 | 1 | 64.72 | 7119.20 |
| Pioneer Lab Members | 25 | 1 | 46.23 | 577.88 |
| Focus Group Panel | 14 | 1 | 64.72 | 9,060.80 |
| Total | 501 | 1 | 63.59 | 18,181.72 |

**Total Respondent Cost = Total Hour Burden * Hourly Wage Rate.

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on 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: Office of Management and Budget, Office of Regulatory Affairs (OIRA). All comments should be sent via email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Attention: Desk Office for NIH. To request more information on the project or to obtain a copy of the data collection plans and instruments contact G. Stephane Philogene, Ph.D., Assistant Director for Policy and Planning, Office of Behavioral and Social Sciences Research, National Institutes of Health, 31 Center Drive. Building 31, Room B2–B37 Bethesda, MD 20892, or call non-toll-free number (301) 402–3902 or E-mail your request, including your address to: *philoges@od.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: July 9, 2009.

**G. Stephane Philogene,**

*Assistant Director for Policy and Planning, Office of Behavioral and Social Sciences Research, National Institutes of Health.*

[FR Doc. E9–16835 Filed 7–15–09; 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 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 section 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential

trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, 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; Animal Models of Infectious Diseases 2.

*Date:* July 29–31, 2009.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Lincoln Ballroom, Silver Spring, MD 20910.

*Contact Person:* Tracy A. Shahan, PhD, MBA, Scientific Review Officer, Scientific Review Program, NIH/NIAID/DHHS, Room 3121, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2606, *tshahan@niaid.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:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Ancillary Studies in Immunomodulation Clinical Trials.

*Date:* August 12, 2009.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

*Contact Person:* Paul A. Amstad, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–7098, *pamstad@niaid.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: July 9, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16830 Filed 7–15–09; 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; Molecular Mechanisms of HIV Latency.

*Date:* August 17, 2009.

*Time:* 12 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6700B Rockledge Drive, Room 3133, Bethesda, MD 20817 (Telephone Conference Call).

*Contact Person:* Jay Bruce Sundstrom, PhD, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–496–2550, *sundstromj@niaid.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: July 9, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16831 Filed 7–15–09; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, July 22, 2009, 8 a.m.to July 23, 2009, 5 p.m., Marriott Bethesda North Hotel & Conference Center, Bethesda, MD which was published in the **Federal Register** on June 11, 2009, 74FR27806.

This notice is amended to change the title from ''NCI–ARRA Competitive Revisions-Pre Clinical, Drug Discovery & Imaging'' to ''NCI–ARRA Competitive Revisions & Grand Opportunity-Pre Clinical, Drug Discovery & Imaging''. The meeting is closed to the public.

Dated: July 9, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16894 Filed 7–15–09; 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 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; Skeletal Muscle Biology and Exercise Physiology Competitive Revisions.

*Date:* July 23–27, 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:* Priscilla B. Chen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@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; Skeletal Biology I ARRA CR.

*Date:* July 23–26, 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:* Daniel F. McDonald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@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; Skeletal Biology II ARRA CR.

*Date:* July 23–26, 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:* Daniel F. McDonald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215. *mcdonald@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; Clinical PAR Application.

*Date:* July 27–28, 2009.

*Time:* 8 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Ryan G. Morris, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@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; RFA–OD–09–003 Challenge Grants Panel 29.

*Date:* July 27, 2009.

*Time:* 11 a.m. to 7 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* William N. Elwood, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3162, MSC 7770, Bethesda, MD 20892, 301/435–1503, *elwoodwi@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; AIDS Fellowship Review.

*Date:* July 28–29, 2009.

*Time:* 8 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:* Hilary D. Sigmon, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@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; Chronic Fatigue Syndrome, Fibromyalgia Syndrome, Temporomandibular Disorders.

*Date:* July 28–29, 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, (Telephone Conference Call).

*Contact Person:* Lynn E. Luethke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 435–1018, *luethkel@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; NAED-associated Competitive Revisions.

*Date:* July 28, 2009.

*Time:* 11 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

*Contact Person:* Mary Clare Walker, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@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; Metabolic Regulation of Diabetes and Obesity.

*Date:* July 29–30, 2009.

*Time:* 8 a.m. to 10 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Reed A. Graves, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@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; Small Business: Instrumentation and Genetics.

*Date:* July 29–31, 2009.

*Time:* 11 a.m. to 9 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Michael A. Marino, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2216, MSC 7890, Bethesda, MD 20892, (301) 435–0601, *marinomi@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; Review of Member Applications and Conflict Applications from BSPH.

*Date:* July 31, 2009.

*Time:* 10 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Mark P. Rubert, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@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; Intercellular Interactions Competitive Revisions.

*Date:* August 3–4, 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:* David Balasundaram, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; AMCB, AIP and VACC Member Conflicts.

*Date:* August 3–4, 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:* Eduardo A. Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; CNS Injury and Neurodegeneration.

*Date:* August 4, 2009.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Jay Joshi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–1184, *joshij@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; ADDT, ACE and NAED Member Conflicts.

*Date:* August 6–7, 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:* Eduardo A. Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Pharmacology SBIR 2.

*Date:* August 6, 2009.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Aidan Hampson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7850, Bethesda, MD 20892, (301) 435–0634, *hampsona@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: July 8, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16893 Filed 7–15–09; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; ARRA–RC2–SEP–3.

*Date:* July 27, 2009.

*Time:* 2:15 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814, (Telephone Conference Call).

*Contact Person:* Bita Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute On Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.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:* National Institute on Aging Special Emphasis Panel; ARRA–RC2–SEP–4.

*Date:* July 28, 2009.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.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:* National Institute on Aging Special Emphasis Panel; ARRA–RC2–SEP 6.

*Date:* July 28, 2009.

*Time:* 4 p.m. to 7 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Rebecca J. Ferrell, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *ferrellrj@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.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; ARRA RC2 SEP5.

*Date:* July 29, 2009.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.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. 93.866, Aging Research; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 8, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16891 Filed 7–15–09; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI–ARRA Grand Opportunities Imaging.

*Date:* August 5, 2009.

*Time:* 11 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call)

*Contact Person:* Sherwood Githens, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd. Room 8053, Bethesda, MD 20892, 301/435–1822, *githenss@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI–ARRA Grand Opportunities Drug Discovery/Delivery & Diagnostics.

*Date:* August 6, 2009.

*Time:* 11 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call)

*Contact Person:* Sherwood Githens, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd. Room 8053, Bethesda, MD 20892, 301/435–1822, *githenss@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 9, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16890 Filed 7–15–09; 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): Impact of Tic Disorders, Including Tourette Syndrome, in Youth, on Individuals, Families, and Communities, Funding Opportunity Announcement (FOA) DD09–004, Initial Review

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:* 10:30 a.m.–12:30 p.m., July 31, 2009 (Closed).

*Place:* Teleconference.

*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 initial review, discussion, and evaluation of ''Impact of Tic Disorders, Including Tourette Syndrome, in Youth, on Individuals, Families, and Communities, FOA DD09–004.''

*Contact Person for More Information:* Michael Dalmat, Scientific Review Administrator, CDC, 1600 Clifton Road, NE., Mailstop K92, Atlanta, GA 30333, Telephone (770) 488–6423.

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: July 9, 2009.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E9–16921 Filed 7–15–09; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical 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 General Medical Sciences, Special Emphasis Panel Expanding the Chemical Space for Carbohydrates.

*Date:* July 23–24, 2009 Time: 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* C. Craig Hyde, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AN18, Bethesda, MD 20892, 301–435–3825. *ch2v@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:* National Institute of General Medical Sciences, Special Emphasis Panel ARRA Funds—Leukocyte Gene Expression in Healthy Humans.

*Date:* August 3, 2009.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Brian R. Pike, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

*Name of Committee:* National Institute of General Medical Sciences, Special Emphasis Panel ARRA Funds—Pharmacogenomics & Electronic Health Records.

*Date:* August 6, 2009.

*Time:* 4 p.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natther Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Brian R. Pike, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 8, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9–16840 Filed 7–15–09; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1843–DR; Docket ID FEMA–2008–0018]**

### Alaska; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Alaska (FEMA–1843–DR), dated June 11, 2009, and related determinations.

**DATES:** *Effective Date:* July 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Alaska is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major

disaster by the President in his declaration of June 11, 2009.

Lower Yukon Regional Educational Attendance Area (REAA) for Individual Assistance.

Yupiit REAA for Individual Assistance (already designated for Public Assistance).

Lower Yukon REAA for Public Assistance.

Yukon-Koyukuk REAA for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. E9–16945 Filed 7–15–09; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1843–DR; Docket ID FEMA–2008–0018]**

### Alaska; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Alaska (FEMA–1843–DR), dated June 11, 2009, and related determinations.

**DATES:** *Effective Date:* May 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective May 31, 2009.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. E9–16948 Filed 7–15–09; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1838–DR; Docket ID FEMA–2008–0018]**

### West Virginia; Amendment No. 6 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of West Virginia (FEMA–1838–DR), dated May 15, 2009, and related determinations.

**DATES:** *Effective Date:* July 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of West Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 15, 2009.

Mercer County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. E9–16947 Filed 7–15–09; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2008–0009]**

### National Disaster Housing Strategy

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice of availability.

**SUMMARY:** This document provides notice of the availability of the final National Disaster Housing Strategy (NDHS) which finalizes the draft version of the NDHS which the Federal Emergency Management Agency (FEMA) published for public comment in July 2008. The NDHS is intended to serve two purposes. It describes how we as a Nation currently provide housing to those affected by disasters, and it charts the new direction that our disaster housing efforts must take if we are to better meet the emergent needs of disaster victims and communities.

**DATES:** The NDHS is effective January 16, 2009.

**ADDRESSES:** The NDHS is available online at *http://*www.regulations.gov and on FEMA's Web site at *http://www.fema.gov/news/newsrelease.fema?id=47305.* The draft and final NDHS, all related **Federal Register** Notices, and all public comments received during the comment period are available at *http://www.regulations.gov* under Docket ID FEMA–2008–0009. You may also view a hard copy of the NDHS at the Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Jack Schuback, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (215) 931–5624.

**SUPPLEMENTARY INFORMATION:** The NDHS serves as a guide to how the Nation

currently provides housing after a disaster, and sets a course for improving the methods in which we can provide housing to meet the emergent needs of disaster victims and communities. As requested by Congress in Section 683 of the Post-Katrina Emergency Management Reform Act of 2006, Public Law 109–295, the NDHS is intended to begin a long-term effort to build on current strengths and encourage all involved to work collaboratively and seek innovative housing solutions. It intends to establish a strong foundation based on clear roles and responsibilities, key principles to guide national efforts, a joint planning process to build baseline capabilities, and additional resources to better prepare for an impending or emergent event.

The NDHS promotes a national housing effort that engages all levels of government and the private sector to collectively meet the urgent housing needs of disaster victims and to enable individuals, households and communities to rebuild and restore their way of life following a disaster. A key concept introduced in the NDHS is the National Disaster Housing Task Force to bring together experts and policymakers whose efforts would be dedicated exclusively to the disaster housing issue. The NDHS draws on best practices and lessons learned over the years to identify actions that can be taken to improve disaster housing assistance. This effort began with realigning roles and responsibilities, renewing our focus on planning, building baseline capabilities, and providing a broader range of flexible disaster housing options. The NDHS outlines a vision, supported by specific goals, that will point the Nation in a new direction to meet the disaster housing needs of individuals and communities going forward.

FEMA received numerous comments on the draft NDHS, which FEMA published for public comment in July 2008. The final version reflects many changes made as a result of those comments.

**Authority:** 6 U.S.C. 772; 42 U.S.C. 5121–5207.

**Robert Farmer,**

*Acting Director, Office of Policy & Program Analysis, Federal Emergency Management Agency.*

[FR Doc. E9–16769 Filed 7–15–09; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Privacy Act of 1974; Amendment of Existing Systems of Records

**AGENCY:** Office of the Secretary, Department of the Interior.

**ACTION:** Proposed amendment of existing systems of records.

**SUMMARY:** In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Secretary of the Department of the Interior is issuing public notice of its intent to amend an existing Privacy Act system of records notice, Passport and Visa Records, OS–52. The revisions will update the categories of records kept, the manner in which the physical records are stored, the methods of securing the records, the system location, and the system manager. The system number is also being changed from OS–52 to DOI–52.

**DATES:** Comments must be received by August 25, 2009.

**ADDRESSES:** Any persons interested in commenting on these proposed amendments to an existing system of records may do so by submitting comments in writing to the Chief, Security Services Branch, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240. Comments may also be submitted by fax to (202) 208–7610. 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.

**FOR FURTHER INFORMATION CONTACT:** Chief, Security Services Branch, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary is proposing to renumber the former Passport and Visa Records, OS–52, to Passport and Visa Records, DOI–52, to more accurately reflect the broad scope of the system within the Department, because it contains records from most of the bureaus of the Department. Additionally, several other sections of the notice are being updated. The category of records will be expanded to include application materials for visas and passports and similar supplementary materials, as well as internal electronic files housing such information for tracking and work purposes. There is an updated description of the type of cabinet or safe housing the physical records. Additional information is provided on the security of the system, and system owner name and location are being updated. Comments received within 40 days of the publication in the **Federal Register** will be considered. The system changes will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Dated: July 8, 2009.

**Steve T. Hargrave,**

*Chief, Security Services Branch, Office of the Secretary.*

### System Name: Passport and Visa Records, DOI–52.

#### SYSTEM LOCATIONS:

Data covered by this system are maintained at one of the following locations: U.S. Department of the Interior, Security Services Branch, 1849 C Street, NW., Washington, DC 20240; Bureau of Reclamation, Native American and International Office, 1849 C Street, NW., MS–7069–MIB, 96–43100, Washington, DC 20240; U.S. Geological Survey, International Programs Office, 12201 Sunrise Valley Drive, MS 917, Reston, VA 20192.

Additionally, records may be stored temporarily in local offices supervising employees with such passports who need access to such records. However, such storage will be temporary, and the three specific offices above are the permanent storage locations for passports in the custody of the Department of the Interior.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Passports and visas, related application materials, and internal electronic tracking or work management files and their paper inputting documents. Application materials, passports, and visas may contain social security number, date and place of birth, full name, physical characteristics, and other personally identifying information. Electronic tracking and work management files may contain such information as full name, date of birth, passport number, bureau of passport holder, date of issuance, expiration date, active or inactive status, and notations about the last office action taken regarding the passport or visa.

**SAFEGUARDS:**

*Physical security:* Access to records covered by the system will be permitted only to authorized personnel in accordance with requirements found in the Departmental Privacy Act regulations (43 CFR 2.51). Paper records are stored in locked, fire-proof file cabinets or in safes located within locked offices of the Department. Electronic files are locally stored internally in the secure, locked office space as well. Access to the Departmental buildings where these records are maintained is controlled by 24 hour guards and badges, and is limited to authorized personnel.

*Technical security:* The electronic files are maintained with safeguards meeting the requirements of 43 CFR 2.51 for automated records, which conform to Office of Management and Budget, National Institute of Standards and Technology, and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act. The electronic data are protected through user identification, passwords, database permissions, encryption at rest where available, and software controls. An audit trail is maintained and reviewed periodically to identify unauthorized access.

*Administrative security:* Before personnel are permitted access to these records, they have been screened by background checks, and they work under supervision of the respective system managers who are Directors of their respective Branch or Office. All personnel are required to receive training in Privacy and in Information Technology Security Awareness before beginning employment, and annually thereafter. Additionally, they have signed rules of behavior before accessing Departmental computer systems.

**SYSTEM MANAGERS AND ADDRESS:**

The three system managers are as follows:

(1) Chief, Security Services Branch, 1849 C Street, NW., Washington DC 20240;

(2) Director, Bureau of Reclamation, Native American and International Affairs Office, 1849 C Street, NW., MS–7069–MIB, 96–43100, Washington, DC 20240;

(3) Director, International Programs Office, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS–917, Reston, VA 20192.

[FR Doc. E9–16944 Filed 7–15–09; 8:45 am]

BILLING CODE 4310–RK–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWY–957400–09–L14200000–BJ0000]**

### Notice of Filing of Plats of Survey, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey, Wyoming.

**SUMMARY:** The Bureau of Land Management (BLM) is scheduled to file the plat of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Bureau of Land Management and is necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of a portion of the south boundary and subdivisional lines, and the subdivision of section 33, Township 34 North, Range 110 West, of the Sixth Principal Meridian, Wyoming, Group No. 726, was accepted July 9, 2009.

Copies of the preceding described plat and field notes are available to the public at a cost of $1.10 per page.

Dated: July 10, 2009.

**John P. Lee,**

*Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. E9–16917 Filed 7–15–09; 8:45 am]

BILLING CODE 4310–22–P

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–680]**

### In the Matter of Certain Machine Vision Software, Machine Vision Systems, and Products Containing Same; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 28, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Cognex Corporation of Natick, Massachusetts and Cognex Technology & Investment Corporation of Mountain View, California. An amended complaint was filed on June 26, 2009. A supplemental letter was filed on July 1, 2009. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain machine vision software, machine vision systems, and products containing same that infringe certain claims of U.S. Patent Nos. 7,016,539; 7,065,262; and 6,959,112. The amended complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

**ADDRESSES:** The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Kevin Baer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2221.

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

*Scope of Investigation:* Having considered the amended complaint, the U.S. International Trade Commission, on July 9, 2009, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted

to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain machine vision software, machine vision systems, or products containing same that infringe one or more of claims 1–6, 8, 12, 18–21, 24, 25, and 33–35 of U.S. Patent No. 7,016,539; 1, 11–13, 21, 28–30, 39, 47, 54, and 55 of U.S. Patent No. 7,065,262; and claims 1–10 of U.S. Patent No. 6,959,112, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Cognex Corporation, One Vision Drive, Natick, MA 01760;

Cognex Technology & Investment Corporation, 465 North Wisman Road, Suite 200, Mountain View, CA 94043.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

MVTec Software GmbH, Neherstr. 1, 81675 München, Germany;

MVTec LLC, 1 Broadway, Cambridge, MA 02142;

E. Zoller GmbH & Co. KG, Gottlieb-Daimler-Strasse 19, 74385 Pleidelsheim, Germany;

Zoller, Inc., 3753 Plaza Drive, Suite #1, Ann Arbor, MI 48108;

Fuji Machine Manufacturing Co., Ltd., 19 Chausuyama, Yamamachi, Chiryu, Aichi 472–8686, Japan;

Fuji America Corporation, 171 Corporate Woods Parkway, Vernon Hills, IL 60061;

Omron Corporation, Gate City Osaki, West Tower 15F, 1–11–1, Osaki, Shinagawa-ku, Tokyo, 141–0032, Japan;

Resolution Technology, Inc., 5990 Wilcox Place, Suite B, Dublin, OH 43016;

Subtechnique, Inc., 4950–C Eisenhower Ave., Alexandria, VA 22304;

Visics Corp., 70 Hastings Street, Wellesley, MA 02181;

Daiichi Jitsugyo Viswill Co., Ltd., 12–43, Honami-cho, Suita City, Osaka 564–0042, Japan;

Daiichi Jitsugyo (America), Inc., 939 A.E.C. Drive, Wood Dale, IL 60191;

Amistar Automation, Inc., 1269 Linda Vista, San Marcos, CA 92078;

Techno Soft Systemnics, Inc., Naniwa Ward, Ebisunishi 2-chome Sakae, Shiyou Building, No. 17, Osaka 556–0003, Japan;

IDS Imaging Development Systems GmbH, Dimbacher Str. 6, Obersulm 74182, Germany;

IDS Imaging Development Systems, Inc., 400 West Cummings Park, Suite 3400, Woburn, MA 01801;

YXLON International GmbH, Essener Bogen 15, Hamburg D–22419, Germany;

YXLON International, Inc., 3400 Gilchrist Road, Mogadore, OH 44260;

Rasco GmbH, Geigelsteinstrasse 6, Kolbermoor 83059, Germany;

Delta Design, Inc., 12367 Crosthwaite Circle, Poway, CA 92064;

Multitest Elektronische Systeme GmbH, Äussere Oberaustrasse 4, Rosenheim 83026, Germany;

Multitest Electronic Systems, Inc., 3021 Kenneth Street, Santa Clara, CA 95054.

(c) The Commission investigative attorney, party to this investigation, is Kevin Baer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: July 13, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9–16901 Filed 7–15–09; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–09–021]**

### Government in the Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** July 20, 2009 at 1 p.m.

**PLACE:** Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**Matters To Be Considered**

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–466 and 731–TA–1162 (Preliminary)(Wire Decking from China)—briefing and vote. (The Commission is currently scheduled to transmit its determinations to the Secretary of Commerce on July 20, 2009; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before July 27, 2009.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier announcement of this meeting was not possible.

Issued: July 13, 2009.

By order of the Commission.

**William R. Bishop,**

*Hearings and Meetings Coordinator.*

[FR Doc. E9–16957 Filed 7–14–09; 11:15 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OMB Number 1121–0249]**

### Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Extension of a Currently Approved Collection; Comment Request

**ACTION:** 60-day notice of information collection under review: Deaths in Custody—series of collections from

local jails, State prisons and juvenile detention centers, and law enforcement.

The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until September 14, 2009. This process is in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Margaret Noonan, Statistician, (202) 353–2060, Bureau of Justice Statistics, 810 Seventh St., NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of currently approved collection.

(2) T*he title of the Form/Collection:* Deaths in Custody Reporting Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Forms: CJ–9 Quarterly Report on Inmates Under Jail Jurisdiction, CJ–9A Annual Summary on Inmates Under Jail Jurisdiction, CJ–10 Quarterly Report on Inmates in Private or Multi-Jurisdiction Jails, CJ–10A Annual Summary on Inmates in Private of Multi-Jurisdiction Jails, NPS–4 Quarterly Summary of Inmate Deaths in State Prison, NPS–4A State Prison Inmate Death Report, CJ–11 Quarterly Summary of Arrest-Related Deaths, and CJ–11A Arrest-Related Death Report. Corrections Statistics Program, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Local jail administrators, State prison administrators. Other: State-level central reporters from each State's criminal justice Statistical Analysis Center (SAC) as well as reporters from the District of Columbia and the New York City Police Department.

One reporter from each of the 3,000 local jail jurisdictions and one reporter from each of the 50 prison systems in the United States are asked to provide information for the following categories:

(a) The number of inmates as of January 1 and December 31st of each reporting year, by gender, either actual or estimated (local jails only);

(b) The number of inmates admitted between January 1 and December 31st of each reporting year (local jails only);

(c) The average daily population of all jail confinement facilities operated by the jurisdiction, by gender, in the previous year (local jails only);

(d) During each reporting quarter, the number of inmate deaths;

(e) The full name, date of birth, gender, race/Hispanic origin and date of death for each inmate who died during the reporting quarter;

(f) The admission date, legal status and current offenses for each inmate who died during the reporting quarter;

(g) Where the inmate died within the correctional facilities;

(h) Whether an autopsy/post-mortem to determine the cause of death of the inmate was performed and the availability of those results;

(i) The location and cause of death of each inmate death that took place during the reporting quarter;

(j) Whether the cause of death was a pre-existing medical condition or a condition that developed after admission to the facility and whether the inmate received treatment for the medical condition after admission and if so, the kind of treatment received (illness—including AIDS—deaths only, deaths due to accidental injury, intoxication, suicide or homicide do not apply);

(k) The time of day that the incident causing the inmate's death occurred and where the incident occurred (limited to accidents, suicides and homicides only);

(l) The survey ends with a small 'notes' block.

Fifty-two state-level central reporters (one reporter from each state, one from the District of Columbia and one from the New York City Police Department) will be asked by BJS to provide information on the following categories:

(a) During each reporting quarter, the number of deaths of persons during the process of arrest by State and local law enforcement;

(b) The deceased's name, date of birth, gender, race/Hispanic origin and legal status at the time of death;

(c) The date and location of death, the manner and medical cause of death and whether an autopsy was performed;

(d) The law enforcement agency involved and the offenses for which the inmate was being charged;

(e) In cases of death prior to booking, whether the death was the result of a medical condition or injuries sustained at the crime or arrest scene and whether the officer(s) involved used any weapons to cause the death;

(f) In cases of death prior to booking, whether the deceased was under restraint, including the use of conducted-energy devices, in the time leading up to the death, and whether their behavior at the arrest scene included threats or the use of any force against the arresting officer(s);

(g) In cases of death after booking, the time and date of the deceased's entry into the law enforcement booking facility where the death occurred, and the medical and mental condition of the deceased at the time of entry;

(h) In cases of death after booking, who caused the death and what were the means of death, e.g., suicide by hanging (limited to accidental deaths, homicides and suicides only).

The Bureau of Justice Statistics uses this information in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimated 3,102 total respondents will submit an estimated 19,308 responses each year to this collection program. The amount of time needed for a typical respondent to complete each form is broken down as follows:

Local jails/quarterly (forms CJ–9 and CJ–10)—3,000 respondents: Approximately 85% of jails nationwide

have zero deaths in a given calendar year, and even greater percentage would have zero deaths in a given calendar quarter. Respondents reporting a zero will need an average of 5 minutes to respond. For jurisdictions reporting a death, the average response time is estimated at 30 minutes per death, for a total of 1,550 hours devoted to reporting data on deaths in jails.

Local jails/annual (forms CJ–9A and CJ–10A)—3,000 respondents will have an average response time of 15 minutes per form, for a total of 750 hours.

State prison/quarterly (form NPS–4)—50 respondents are estimated to have an average response time of 5 minutes per form, for a total of 17 hours.

State prisons addendum/quarterly (form NPS–4A)—50 respondents are estimated to have an average response time of 30 minutes per death, for a total of 1,600 hours.

State and local law enforcement/quarterly (CJ–11)—52 respondents are estimated to have an average response time of 5 minutes per form, for a total of 17 hours.

State and local law enforcement addendum/quarterly (CJ–11A)—52 respondents are estimated to have an average response time of 60 minutes per death, for a total of 700 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: 4,634 annual burden hours.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: July 8, 2009.

**Lynn Bryant,**

*Department Clearance Officer, PRA, United States Department of Justice.*

[FR Doc. E9–16589 Filed 7–15–09; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993; the Association of Public-Safety Communications Officials International

Notice is hereby given that, on May 22, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Association of Public-Safety Communications Officials International (''APCO'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: The Association of Public-Safety Communications Officials International, Daytona Beach, FL. The nature and scope of APCO's standards development activities are: Public safety communications, including, but not limited to: training and professional development, professional qualifications, education, performance programs, technology, systems, operations, and other related issues.

**Patricia A. Brink,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. E9–16781 Filed 7–15–09; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF LABOR

### Comment Request for Proposed Information Collection for Employment and Training Administration Financial Report Form #9130 (OMB Control No. 1205–0461), Extension Without Change

**AGENCY:** Employment and Training Administration.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the collection of data for quarterly financial reporting on federally funded programs, on Form ETA–9130 (currently due to expire November 30, 2009).

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

**DATES:** Written comments must be submitted to the office listed in the addressee's section below on or before September 14, 2009.

**ADDRESSES:** Submit written comments to Judi Fisher, Room N–4716, Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone number: 202–693–3024 (this is not a toll-free number). Fax: 202–693–3362. E-mail: *fisher.judi@dol.gov*.

**SUPPLEMENTARY INFORMATION:** Financial reporting requirements for Federal programs are prescribed in OMB Circulars A–102 and A–110. U.S. DOL has codified these requirements at 29 CFR 95.52 and 29 CFR 97.41, which specify that forms approved by OMB are authorized for obtaining financial information from recipients.

Pursuant to Public Law 106–107, OMB is streamlining Federal financial reporting. Inclusion of Federal Cash data in quarterly financial reporting is a significant modification that has been added to the expenditure information contained in ETA Form 9130.

Further, ETA programs have varied administrative cost limitation requirements as specified in program statutes, regulations, and/or individual grant agreements. A line item for Total Administrative Expenditures provides a mechanism for assessing compliance with these requirements.

ETA has utilized the data collected to assess the effectiveness of ETA programs and to monitor and analyze the financial activity of its grantees. Grantees are provided with pre-designed software to reflect the requirements of ETA Form 9130 so that the required data will be reported electronically.

This data collection format permits ETA to evaluate program effectiveness and to monitor and analyze financial activity, while complying with OMB efforts to streamline Federal financial reporting.

**I. Review Focus**

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**III. Current Actions**

*Title:* US DOL Employment and Training Administration Financial Reporting Form, ETA 9130.

*OMB Number:* 1205–0461.

*Type of Review:* extension without changes.

*Frequency:* Quarterly.

*Affected Public:* Business or other for-profit and not-for-profit institutions.

*Type of Response:* Reporting.

*Number of Respondents:* 680.

*Annual Responses:* 5,440.

*Average Response Time:* ½ hour (30 minutes).

*Total Annual Burden Hours:* 2,720.

*Total Annualized Capital/Startup Costs:* 0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 10, 2009.

**Laura P. Watson,**

*Associate Deputy Administrator, Office of Financial and Administrative Management, Employment and Training Administration.*

[FR Doc. E9–16816 Filed 7–15–09; 8:45 am]

**BILLING CODE 4510–FN–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities; Renewal of a Currently Approved Collection; Comment Request; Suspicious Activity Report by Depository Institutions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice and request for comments.

**SUMMARY:** FinCEN and the Banking Supervisory Agencies,[1] as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). FinCEN and the Banking Supervisory Agencies are soliciting comments concerning the currently approved Suspicious Activity Report by Depository Institutions, which is being renewed without change.

**DATES:** Written comments should be received on or before August 17, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the Office of Management and Budget (OMB) control numbers, will be shared among the agencies. Direct all written comments as follows:

*NCUA:* Clearance Officer: Mr. Jeryl Fish, (703) 518–6440, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. (703) 837–2861, E-mail: *OCIOMail@ncua.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or a copy of the collection may be obtained by contacting:

*NCUA:* Tracy Sumpter, Office of the Chief Information Officer, (703) 518–6444 or John K. Ianno, Office of General Counsel, (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

*Title:* Suspicious Activity Report by Depository Institutions (SAR). The Office of the Comptroller of the Currency is renewing without change all information collections covered under the information collection titled: ''(MA)—Minimum Security Devices and Procedures, Reports of Suspicious Activities, and Bank Secrecy Act Compliance—12 CFR 21.'' The FDIC is renewing all information collections covered under the information collected pursuant to Part 353—Suspicious Activity Reports, 12 CFR Part 353. FinCEN is also renewing without change the information collections in 31 CFR 103.18.

*OMB Control Numbers:*

Financial Crimes Enforcement Network: 1506–0001.

Board of Governors of the Federal Reserve System: 7100–0212.

Federal Deposit Insurance Corporation: 3064–0077.

National Credit Union Administration: 3133–0094.

Office of the Comptroller of the Currency: 1557–0180.

Office of Thrift Supervision: 1550–0003.

*Form Numbers:*

Financial Crimes Enforcement Network: Form 111.

Board of Governors of the Federal Reserve System: FR 2230.

Federal Deposit Insurance Corporation: 6710/06.

National Credit Union Administration: 2362.

Office of the Comptroller of the Currency: 8010–1/8010–9.

Office of Thrift Supervision: 1601.

*Abstract:* In 1985, the Banking Supervisory Agencies issued procedures to be used by banks and certain other financial institutions operating in the United States to report known or suspected criminal activities to the appropriate law enforcement and Banking Supervisory Agencies. Beginning in 1994, the Banking Supervisory Agencies and the FinCEN redesigned the reporting process resulting in the Suspicious Activity Report, which became effective in April 1996. The report is authorized by the following regulations: 31 CFR 103.18 (FinCEN); 12 CFR 21.11 (OCC); 12 CFR 563.180 (OTS); 12 CFR 208.62(c), 211.5(k), 211.24(f), and 225.4(f) (Board); 12 CFR 353.3 (FDIC); 12 CFR 748.1 (NCUA). The regulations were issued under the authority contained in the following statutes: 31 U.S.C. 5318(g) (FinCEN); 12 U.S.C. 93a, 1818, 1881–84, 3401–22, 31 U.S.C. 5318 (OCC); 12 U.S.C. 1463 and 1464 (OTS); 12 U.S.C. 248(a)(1), 625, 1818, 1844(c), 3105(c)(2) and 3106(a) (Board); 12 U.S.C. 1818–1820 (FDIC); 12 U.S.C. 1766(a), 1789(a) (NCUA).

*Current Action:* The Banking Supervisory Agencies and the FinCEN propose to renew, without revision, the currently approved form.[2]

[1] The term ''Banking Supervisory Agencies'' is the collective term for the following organizations: The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision.

[2] The form being renewed was approved by OMB effective June 30, 2007. On May 1, 2007, FinCEN published a **Federal Register** notice (72 FR 23891) (*http://www.fincen.gov/statutes_regs/frn/pdf/sar_fr_notice.pdf*) announcing the delayed implementation of the revised Suspicious Activity Report (SAR) forms. The revised SAR forms that support joint filings were originally scheduled to become effective on June 30, 2007 and mandatory on December 31, 2007. The delay in implementation does not impact ongoing suspicious activity reporting. Filers should

Continued

*Type of Review:* Renewal of a currently approved collection.

*Affected Public:* Business, for-profit institutions, and non-profit institutions.

*Estimated Number of Respondents:* National Credit Union Administration (NCUA): 7,834.

*Estimated Total Annual Responses:* NCUA: 56,500.

*Estimated Total Annual Burden:* Estimated 60 minutes per form: NCUA: 56,500 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget control number. Records required to be retained under the Bank Secrecy Act and these regulations issued by the Banking Supervisory Agencies must be retained for five years. Generally, information collected pursuant to the Bank Secrecy Act is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

By the National Credit Union Administration Board on July 13, 2009.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. E9–16925 Filed 7–15–09; 8:45 am]

**BILLING CODE 4810–02–P**

continue to use the July 2003 form until further notice (*http://www.fincen.gov/forms/files/f9022-47_sar-di.pdf*). FinCEN will establish new dates for using the revised SAR forms in a future notice. Depository institutions will be provided ample lead time to incorporate the approved version.

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act; Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

**TIME AND DATE:** 10 a.m., Thursday, July 16, 2009.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

**STATUS:** Open.

**MATTER TO BE ADDED:** 5a. Revisions to Temporary Corporate Credit Union Liquidity Guarantee Program.

**FOR FURTHER INFORMATION CONTACT:** Mary Rupp, Secretary of the Board, *Telephone:* 703–518–6304

**Mary Rupp,**

*Board Secretary.*

[FR Doc. E9–17021 Filed 7–14–09; 11:15 am]

**BILLING CODE 7535–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that two meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate):

*Literature (application review):* August 5–6, 2009 in Room 714. This meeting, from 9 a.m. to 6:30 p.m. on August 5th and from 9 a.m. to 6 p.m. on August 6th, will be closed.

*Literature (application review):* August 7, 2009 in Room 714. This meeting, from 9 a.m. to 5 p.m., will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 28, 2008, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: July 13, 2009.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. E9–16915 Filed 7–15–09; 8:45 am]

**BILLING CODE 7537–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–461; NRC–2009–0314]**

### Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62, issued to Exelon Generation Company, LLC (the licensee), for operation of the Clinton Power Station located in DeWitt County, Illinois.

The proposed amendment would eliminate the requirement for main steam line isolations on high turbine building temperatures from technical specification section 3.3.6.1, ''Primary Containment and Drywell Isolation Instrumentation,'' Table 3.3.6.1–1 (*i.e.,* Function 1.f).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60

days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by calling (301) 415–1677, to request (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The toll-free help line number is 1–866–672–7640. A person filing electronically may also seek assistance by sending an e-mail to the NRC electronic filing Help Desk at *MSHD.Resource@nrc.gov.*

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or

the Atomic Safety and Licensing Board that the request and/or petition should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/ehd_proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

For further details with respect to this license amendment application, see the application for amendment dated June 15, 2009, as supplemented by letters dated June 20 and June 23, 2009, which are available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *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 PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

*Attorney for licensee:* Mr. Bradley J. Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

Dated at Rockville, Maryland, this 10th day of July 2009.

For the Nuclear Regulatory Commission.

**Stephen P. Sands,**

*Project Manager, Plant Licensing Branch 3–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E9–16918 Filed 7–15–09; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2009–0312; Docket No. 030–35985]**

## Environmental Assessment and Final Finding of No Significant Impact With Regard to Exemption From Certain Regulatory Requirements

### Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to exempt all NRC medical use licensees from certain requirements in 10 CFR 35.60(b), 10 CFR 35.100(a)(1) and 35.200(a)(1), and 10 CFR 32.72. These requirements govern calibration tests that use technetium-99m, and distribution of molybdenum-99/technetium-99m generators and technetium-99m radioactive drugs to and from medical use licensees. NRC is issuing these exemptions to ensure that available technetium-99 is being used for patient administrations during any period of United States and worldwide shortages of molybdenum-99, which is used to produce molybdenum-99/technetium-99m generators for medical use.

These exemptions will be effective only when there are United States shortages of technetium-99m caused by production shortages of molybdenum-99, as documented in writing by the supplier of molybedenum-99/technetium-99m generators or technetium-99m.

### Environmental Assessment

*Identification of the Proposed Action*

The NRC proposes to issue exemptions to all NRC medical use licensees from the requirements in 10 CFR 35.60(b) to calibrate the instrumentation required in paragraph (a) of this section in accordance with nationally recognized standards. The licensee will not be required to perform the calibration test at the maximum activity or at the time interval specified in the national standard if the licensee would use technetium-99m needed for a patient administration to perform the calibration test. The exemption will only be in effect when the licensee is receiving reduced quantities of technetium-99m as a result of production shortages of molybdenum-99 affecting their generator or technetium-99m supplier, as documented in writing by the supplier. The licensee must perform the test when adequate supplies, as documented in writing by the technetium-99 supplier, become available, and document results of the test in accordance with 10 CFR 35.2060. Depending on the maximum activity needed to perform the calibration test and the activity of technetium-99m in the radioactive drug, this may make dosages available to 7–15 additional patients at the licensee's facility.

The NRC proposes to issue exemptions to all NRC medical use licensees from the requirements in 10 CFR 35.100(a)(1) and 35.200(a)(1) to obtain unsealed byproduct material prepared for medical use for uptake, dilution, excretion, imaging or localization studies from a manufacturer or preparer licensed under § 32.72 of this chapter or equivalent Agreement State requirements, if the licensee obtains the technetium-99m (or a technetium-99m radioactive drug) from another medical use licensee to administer to patients. This permits medical use licensees that cannot get technetium-99m from their normal supplier because of the shortage to obtain some technetium-99m from a local medical use licensee that has a surplus. This exemption will only be in effect when the licensee is unable to obtain technetium-99m (or a technetium-99m radioactive drug) from its normal supplier as a result of production shortages of molybdenum-99 affecting its generator or technetium-99m supplier, as documented in writing by the supplier. This exemption will give some relief on a case-by-case basis to a medical use licensee if its supplier is severely affected by the shortage but the other medical use licensee's supplier is not.

The NRC proposes to issue exemptions to all NRC medical use licensees from requirements in 10 CFR 32.72, to permit the licensee to transfer surplus molybdenum-99/technetium-99m generators or technetium-99m, or technetium-99m radioactive drugs to other medical use licensees for administration to patients without requiring the licensee to meet the requirements for a commercial distributor of radioactive drugs to medical use licensees. This exemption will only be in effect when the receiving medical use licensee is unable to obtain a generator, or technetium-99m or technetium-99m radioactive drugs from its normal supplier, as a result of production shortages of molybdenum-99 affecting its generator or technetium-99m supplier, as documented in writing by the supplier. This exemption will facilitate and give relief on a case-by-case basis to a medical use licensee with a surplus of technetium-99m (or a technetium-99m radioactive drug) because its supplier is not affected by the shortage in the transfer of the technetium-99m to the other medical use licensee whose supplier is affected.

*Need for the Proposed Action*

These exemptions are needed in times of molybdenum-99 shortages in the United States to ensure that available technetium-99m is used for patient treatment. On May 14, 2009, the Chalk River National Research Universal reactor in Canada experienced an unexpected shutdown that has resulted in an extended shutdown for safety repairs. The Chalk River reactor produces approximately 50 percent of the United States supply of molybdenum-99 used to produce molybdenum-99/technetium-99m generators. This resulted in a United States and worldwide shortage of molybdenum-99 for generator production and technetium-99m for medical uses. The High Flux Reactor in Petten, the Netherlands, also produces a substantial amount of molybdenum-99 used to produce generators in the United States and the world. The reactor in Petten is currently operating on a temporary operating permit and expected to be shut down in early 2010 for a number of months for repairs. This will also cause molybdenum-99 and technetium-99m shortages in the United States and the world. The supply chain for fission-produced isotopes is fragile and may shrink dramatically at any time when these two, or the other three aging international reactors currently producing these isotopes, are shut down for safety or routine maintenance.

**Environmental Impacts of the Proposed Action**

During times of supply shortages, there is less molybdenum-99 and technetium-99m available for molybdenum-99/technetium-99 generator production. There are also fewer generators to elute, and fewer technetium-99m radioactive drugs produced. The exemption will: (1) Allow lower quantities of technetium-99m to be used for calibrations and delay the calibration test, making quantities available for patient administrations; (2) allow a licensee to obtain unsealed byproduct material from another licensee other than directly from the manufacturer or commercial nuclear pharmacy; and (3) allow a licensee with sufficient product to transfer excess to another authorized licensee for patient administration. The exemptions do not relieve the licensee from NRC environmental release requirements or worker dose or public dose requirements associated with the elution of molybdenum-99/technetium-99m generators, preparation of technetium-99m radioactive drugs, administration of the technetium-99m radioactive drugs to patients, handling of these radioactive materials, or handling of radioactive waste. All of those protections remain in place. Neither molybdenium-99 nor technetium-99m is a volatile radionuclide. Molybdenum-99 remains attached to the generator resins and technetium-99m stays suspended in the eluent. Both radionuclides have short half-lives. None of the proposed exemptions affects how the licensee handles these radionuclides. Their medical use when there are no shortages results in minimal impact on the environment and public dose exposures. During times of shortage, medical use licensees will have less technetium-99m to use and there will be fewer patients receiving technetium-99m radioactive drugs even when maximizing the medical use of available technetium-99m. Therefore, the proposed action will not result in an increase in the release of radioactive material into the environment or increase public radiation exposure. There will be no impact on the environment as a result of the proposed action.

**Alternatives to the Proposed Action**

As required by Section 102(2)(E) of NEPA (42 U.S.C. 4322(2)(E)), possible alternatives to the final action have been considered. The NRC identified only one reasonable alternative for consideration: the no action alternative. This no action alternative would not result in any adverse impact on the environment but would negatively impact the medical use licensees' provision of medical care to their patients. During shortages in the United States and the world of molybdenum-99, the supply of technetium-99m available to administer to patients is less than the amount needed to perform important cardiac, cancer, and other imaging procedures. Using technetium-99m to perform calibration tests at maximum activities and at preset intervals instead of for patient administrations would prevent a number of patients from receiving these needed procedures. Temporary relief from the national standards should not result in significantly different patient radiation dosages because most instruments used to measure patient dosages today are stable if not moved and provided with reasonable climate controls. Also, performing the test at lower activity levels will provide confidence that the instrument is still calibrated over the levels of routine technetium-99m dosages. For higher dosages requiring written directives, the licensee can use the activity provided with the radioactive drug to assure patient safety. Not granting an exemption to permit distribution to and receipt of excess generators and technetium-99m by other authorized medical use licensees that do not have any also would reduce the number of patients receiving needed procedures. For these reasons, the NRC did not adopt the no action alternative.

**Alternative Use of Resources**

No alternative use of resources was considered due to the reasons stated above.

**Agencies and Persons Consulted**

No other agencies or persons were contacted regarding this proposed action.

**Identification of Source Used**

None.

**Finding of No Significant Impact**

Based on the above environmental assessment, the NRC finds that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate and preparation of an environmental impact statement is not warranted.

Dated at Rockville, Maryland, this 10th day of July 2009.

For the Nuclear Regulatory Commission.

**Duane E. White,**

*Acting Chief, Radioactive Materials Safety Branch, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs Safety and Safeguards.*

[FR Doc. E9–16916 Filed 7–15–09; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2009–0313]**

## License Renewal Interim Staff Guidance LR–ISG–2006–02: Staff Guidance Regarding the Acceptance Reviews for Environmental Requirements for License Renewal Applications; Notice of Withdrawal

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of withdrawal.

**SUMMARY:** The NRC is withdrawing its proposed License Renewal Interim Staff Guidance (LR–ISG), LR–ISG–2006–02, ''Staff Guidance on Acceptance Review for Environmental Reports for License Renewal Applications,'' which was noticed in the **Federal Register** (72 FR 7694 on February 16, 2007). This

proposed LR–ISG was intended to aid NRC staff in conducting environmental acceptance reviews, and identify information to include in environmental reports (ERs). The proposed LR–ISG also provided an acceptance review checklist.

The staff informed NEI and other stakeholders of the opportunity to comment on the proposed LR–ISG–2006–02 by letter dated February 8, 2007 (ADAMS Accession No. ML063190440). The staff noted that the guidance in this proposed LR–ISG would be incorporated into a future update of Environmental Standard Review Plan (ESRP), NUREG–1555, ''Standard Review Plans for Environmental Reviews for Nuclear Power Plants.'' NEI provided comments on the proposed LR–ISG in a letter dated April 16, 2007 (ADAMS Accession No. ML071090137). No other stakeholders provided comments.

The NRC is currently preparing a proposed rule to amend its regulations in Part 51 of Title 10 of the *Code of Federal Regulations* regarding findings on environmental impacts related to license renewal. Specifically, the proposed rule will reestablish the scope of the environmental impact issues which must be addressed in conjunction with the review of applications for license renewal. As part of this rulemaking, the NRC staff will issue for comments a revised *Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants.* Concurrent with this update, the staff will also publish a revised Regulatory Guide 4.2, *Preparation of Environmental Reports for License Renewal Applications,* and a revised Environmental Standard Review Plan, *Standard Review Plans for Environmental Reviews for Nuclear Power Plants.* Consequently, the staff has determined that ongoing efforts to update the aforementioned documents will obviate the need for LR–ISG–2006–02. Comments received to date on LR–ISG–2006–02 will be appropriately considered as part of such efforts to update existing guidance.

**ADDRESSES:** Documents created or received after November 1, 1999, are available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS). If you do not have access to the Internet or if there are any problems in accessing the documents located in ADAMS, 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. Ian Spivack, Division of License Renewal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–2564; or e-mail *Ian.Spivack@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The NRC issues LR–ISGs to communicate insights and lessons learned, and to address emergent issues not addressed in certain license renewal guidance documents. The NRC staff and stakeholders can use approved LR–ISGs until their guidance is incorporated into a formal license renewal guidance document revision. The NRC posts ISGs on the NRC public Web page at *http://www.nrc.gov/reading-rm/doc-collections/isg.*

For the reasons stated above, the NRC has determined that LR–ISG–2006–02 is not needed. The staff considers this LR–ISG withdrawn and closed.

Dated at Rockville, Maryland, this 8th day of July 2009.

For the Nuclear Regulatory Commission.

**Samson S. Lee,**

*Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.*

[FR Doc. E9–16920 Filed 7–15–09; 8:45 am]

**BILLING CODE 7590–01–P**

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## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2009–27 and CP2009–37; Order No. 231]**

## Priority Mail Contract

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice of contract approval.

**SUMMARY:** This document informs the public that the Commission has reviewed and approved the Postal Service's recent request to add a new Priority Mail contract to its list of competitive offerings. It also addresses other procedural and legal matters aspects of the review and approval.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202–789–6824 or *stephen.sharfman@prc.gov.*

**SUPPLEMENTARY HISTORY:** *Regulatory History,* 74 FR 30179 (June 24, 2009).

I. Background
II. Comments
III. Commission Analysis
IV. Ordering Paragraphs

The Postal Service seeks to add a new product identified as Priority Mail Contract 11 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

### I. Background

On June 11, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, announcing that it has entered into an additional contract (Priority Mail Contract 11), which it attempts to classify within the previously proposed Priority Mail Contract Group product.[1] In support, the Postal Service filed the proposed contract and referenced Governors' Decision 09–6 filed in Docket No. MC2009–25. *Id.* at 1. The Notice has been assigned Docket No. CP2009–37.

In response to Order No. 222,[2] and in accordance with 39 U.S.C. 3642 and 39 CFR 3020 subpart B, the Postal Service filed a formal request to add Priority Mail Contract 11 to the Competitive Product List as a separate product.[3] The Postal Service asserts that the Priority Mail Contract 11 product is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2009–27.

In support of its Notice and Request, the Postal Service filed the following materials: (1) A redacted version of the contract which, among other things, provides that the contract will expire 3 years from the effective date, which is proposed to be the day that the Commission issues all regulatory approvals;[4] (2) requested changes in the Mail Classification Schedule product list;[5] (3) a Statement of Supporting Justification as required by 39 CFR 3020.32;[6] and (4) certification of compliance with 39 U.S.C. 3633(a).[7]

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Request, Attachment B, at 1. W. Ashley

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[1] Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 11), June 11, 2009 (Notice).

[2] PRC Order No. 222, Notice and Order Concerning Filing of Priority Mail Contract 11 Negotiated Service Agreement, June 17, 2009 (Order No. 222).

[3] Request of the United States Postal Service to Add Priority Mail Contract 11 to Competitive Product List, June 23, 2009 (Request).

[4] Attachment A to the Notice.

[5] Attachment A to the Request.

[6] Attachment B to the Request.

[7] Attachment B to the Notice.

Lyons, Manager, Corporate Financial Planning, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). Notice, Attachment B.

The Postal Service filed much of the supporting materials, including the unredacted contract, under seal. In its Notice, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections, should remain confidential. Notice at 2–3.

In Order No. 222, the Commission gave notice of the two dockets, requested supplemental information, appointed a public representative, and provided the public with an opportunity to comment.[8] On June 22, 2009, Chairman's Information Request No. 1 was filed.[9] On June 23, 2009, the Postal Service filed the supplemental information requested.[10] The Postal Service filed its response to the Chairman's Information Request on June 26, 2009.[11]

## II. Comments

Comments were filed by the Public Representative.[12] No comments were submitted by other interested parties. The Public Representative states that the Postal Service's filing complies with applicable Commission rules of practice and procedure, and concludes that the Priority Mail Contract 11 agreement comports with the requirements of title 39 and is appropriately classified as competitive. *Id.* at 3.

The Public Representative believes that the Postal Service has provided adequate justification for maintaining confidentiality in this case. *Id.* at 2–3. He indicates that the contractual provisions are mutually beneficial to the parties and general public. *Id.* at 4.

## III. Commission Analysis

The Commission has reviewed the Notice, the Request, the contract, the financial analysis provided under seal that accompanies it, the Postal Service's responses to Chairman's Information Request No. 1, the Postal Service's response to the Commission's request for supplemental information, and the comments filed by the Public Representative.

*Statutory requirements.* The Commission's statutory responsibilities in this instance entail assigning Priority Mail Contract 11 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

*Product list assignment.* In determining whether to assign Priority Mail Contract 11 as a product to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether:

> 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 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 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 B, para. (d). 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 the contract partner supports the addition of the contract to the Competitive Product List to effectuate the negotiated contractual terms. *Id.* at para. (g). 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.* at para. (h).

No commenter opposes the proposed classification of Priority Mail Contract 11 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Priority Mail Contract 11 is appropriately classified as a competitive product and should be added to the Competitive Product List.

*Cost considerations.* The Postal Service presents a financial analysis showing that Priority Mail Contract 11 results in cost savings while ensuring that the contract covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products. Order No. 222 and Chairman's Information Request No. 1 sought additional support and justification for particular cost saving elements. The Postal Service's responses did not persuade the Commission that certain cost savings elements were appropriate here.

Accordingly, the Commission's analysis of the proposed contract is based on alternative cost estimates of certain mail functions. The Commission employed this analysis to determine whether changed cost inputs would materially affect the contract's financial analysis.[13] The Commission concludes that the changed inputs do not have a material effect on the underlying financial analysis of the contract.

Based on the data submitted and the Commission's alternative analysis, the Commission finds that Priority Mail Contract 11 should cover its 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 proposed Priority Mail Contract 11 indicates that it comports with the provisions applicable to rates for competitive products.

The electronic files submitted in support of the Notice 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 delay resolution of requests in the future.

*Other considerations.* The Postal Service shall promptly notify the

[8] Order No. 222 at 1–4.

[9] Chairman's Information Request No. 1 and Notice of Filing of Question Under Seal, June 22, 2009. A portion of the Chairman's Information Request was filed under seal.

[10] Response of the United States Postal Service to Commission's Request for Supplemental Information in Order No. 222, June 23, 2009.

[11] Response to Chairman's Information Request No. 1, Question 2 and Notice of Filing Responses to Questions 1 and 3 Under Seal, June 26, 2009.

[12] Public Representative Comments in Response to United States Postal Service Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 11), June 26, 2009 (Public Representative Comments).

[13] The Commission's analysis is set forth in Library Reference PRC–CP2009–37–NP–LR–1, which, because it contains confidential information, is being filed under seal.

Commission of the scheduled termination date of the agreement. If the agreement terminates earlier than anticipated, the Postal Service shall inform the Commission prior to the new termination date. The Commission will then remove the product from the Mail Classification Schedule at the earliest possible opportunity.

In conclusion, the Commission approves Priority Mail Contract 11 as a new product. The revision to the Competitive Product List is shown below the signature of this order and is effective upon issuance of this order.

## IV. Ordering Paragraphs

*It is ordered:*

1. Priority Mail Contract 11 (MC2009–27 and CP2009–37) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission of the scheduled termination date and update the Commission if the termination date occurs prior to that date, as discussed in this order.

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

Issued: July 1, 2009.

By the Commission.

**Judith M. Grady,**

*Acting Secretary.*

## 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 (NFMs)/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
- The Bradford Group Negotiated Service Agreement
- Inbound International
- Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services

Market Dominant Product Descriptions

First-Class Mail

[Reserved for Class Description]
- Single-Piece Letters/Postcards
  - [Reserved for Product Description]
- Bulk Letters/Postcards
  - [Reserved for Product Description]
- Flats
  - [Reserved for Product Description]
- Parcels
  - [Reserved for Product Description]
- Outbound Single-Piece First-Class Mail International
  - [Reserved for Product Description]
- Inbound Single-Piece First-Class Mail International
  - [Reserved for Product Description]

Standard Mail (Regular and Nonprofit)

[Reserved for Class Description]
- High Density and Saturation Letters
  - [Reserved for Product Description]
- High Density and Saturation Flats/Parcels
  - [Reserved for Product Description]
- Carrier Route
  - [Reserved for Product Description]
- Letters
  - [Reserved for Product Description]
- Flats
  - [Reserved for Product Description]
- Not Flat-Machinables (NFMs)/Parcels
  - [Reserved for Product Description]

Periodicals

[Reserved for Class Description]
- Within County Periodicals
  - [Reserved for Product Description]
- Outside County Periodicals
  - [Reserved for Product Description]

Package Services

[Reserved for Class Description]
- Single-Piece Parcel Post
  - [Reserved for Product Description]
- Inbound Surface Parcel Post (at UPU rates)
  - [Reserved for Product Description]
- Bound Printed Matter Flats
  - [Reserved for Product Description]
- Bound Printed Matter Parcels
  - [Reserved for Product Description]
- Media Mail/Library Mail
  - [Reserved for Product Description]

Special Services

[Reserved for Class Description]
- Ancillary Services
  - [Reserved for Product Description]
- Address Correction Service
  - [Reserved for Product Description]
- Applications and Mailing Permits
  - [Reserved for Product Description]
- Business Reply Mail
  - [Reserved for Product Description]
- Bulk Parcel Return Service
  - [Reserved for Product Description]
- Certified Mail
  - [Reserved for Product Description]
- Certificate of Mailing
  - [Reserved for Product Description]
- Collect on Delivery
  - [Reserved for Product Description]
- Delivery Confirmation
  - [Reserved for Product Description]
- Insurance
  - [Reserved for Product Description]
- Merchandise Return Service
  - [Reserved for Product Description]
- Parcel Airlift (PAL)
  - [Reserved for Product Description]
- Registered Mail
  - [Reserved for Product Description]
- Return Receipt
  - [Reserved for Product Description]
- Return Receipt for Merchandise
  - [Reserved for Product Description]
- Restricted Delivery
  - [Reserved for Product Description]
- Shipper-Paid Forwarding
  - [Reserved for Product Description]
- Signature Confirmation
  - [Reserved for Product Description]
- Special Handling
  - [Reserved for Product Description]
- Stamped Envelopes
  - [Reserved for Product Description]
- Stamped Cards
  - [Reserved for Product Description]
- Premium Stamped Stationery
  - [Reserved for Product Description]
- Premium Stamped Cards
  - [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]
- Address List Services
  - [Reserved for Product Description]
- Caller Service
  - [Reserved for Product Description]
- Change-of-Address Credit Card Authentication
  - [Reserved for Product Description]
- Confirm
  - [Reserved for Product Description]
- International Reply Coupon Service
  - [Reserved for Product Description]
- International Business Reply Mail Service
  - [Reserved for Product Description]
- Money Orders
  - [Reserved for Product Description]
- Post Office Box Service
  - [Reserved for Product Description]

Negotiated Service Agreements

[Reserved for Class Description]
- HSBC North America Holdings Inc. Negotiated Service Agreement
  - [Reserved for Product Description]
- Bookspan Negotiated Service Agreement
  - [Reserved for Product Description]
- Bank of America Corporation Negotiated Service Agreement

The Bradford Group Negotiated Service Agreement

Part B—Competitive Products

Competitive Product List
Express Mail
Express Mail
Outbound International Expedited Services
Inbound International Expedited Services
Inbound International Expedited Services 1 (CP2008–7)
Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
Priority Mail
Priority Mail
Outbound Priority Mail International
Inbound Air Parcel Post
Royal Mail Group Inbound Air Parcel Post Agreement
Parcel Select
Parcel Return Service
International
International Priority Airlift (IPA)
International Surface Airlift (ISAL)
International Direct Sacks—M-Bags
Global Customized Shipping Services
Inbound Surface Parcel Post (at non-UPU rates)
Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)
International Money Transfer Service
International Ancillary Services
Special Services
Premium Forwarding Service
Negotiated Service Agreements
Domestic
Express Mail Contract 1 (MC2008–5)
Express Mail Contract 2 (MC2009–3 and CP2009–4)
Express Mail Contract 3 (MC2009–15 and CP2009–21)
Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)
Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
Priority Mail Contract 1 (MC2008–8 and CP2008–26)
Priority Mail Contract 2 (MC2009–2 and CP2009–3)
Priority Mail Contract 3 (MC2009–4 and CP2009–5)
Priority Mail Contract 4 (MC2009–5 and CP2009–6)
Priority Mail Contract 5 (MC2009–21 and CP2009–26)
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)
Priority Mail Contract 10 (MC2009–25 and CP2009–34)
Priority Mail Contract 11 (MC2009–27 and CP2009–37)
Outbound International
Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)
Global Expedited Package Services (GEPS) Contracts
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)
Global Plus Contracts
Global Plus 1 (CP2008–9 and CP2008–10)
Global Plus 2 (MC2008–7, CP2008–16 and CP2008–17)
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. E9–16844 Filed 7–15–09; 8:45 am]

BILLING CODE 7710–FW–P

## RAILROAD RETIREMENT BOARD

### Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on July 22, 2009, 10 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Executive Committee Reports.

(2) For Discussion Only: Implications of SSA OIG QRE Findings on RRB Disability Processing and the Financial Interchange.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: July 13, 2009.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. E9–17024 Filed 7–14–09; 11:15 am]

BILLING CODE 7905–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [tba]

**STATUS:** Closed meeting.

**PLACE:** 100 F Street, NE., Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Tuesday, July 21, 2009 at 2 p.m.

**CHANGE IN THE MEETING:** Additional item.

The following item has been added to the Tuesday, July 21, 2009 Closed Meeting agenda:

**Opinion**

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(c)(10) and 17 CFR 200.402(a)(10) permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Aguilar, as duty officer, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: July 14, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–17091 Filed 7–14–09; 4:15 pm]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold Closed Meetings on Monday, July 20, 2009 at 3 p.m. and on Tuesday, July 21, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(10) and 17 CFR 200.402(a)(10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meetings in a closed session.

The subject matter of the Closed Meetings scheduled for Monday, July 20, 2009 and Tuesday, July 21, 2009 will be: Post-argument discussions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: July 13, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–17001 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold Open Meetings on Monday, July 20, 2009 at 2 p.m. and Tuesday, July 21, 2009 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the July 20, 2009 Open Meeting will be:

The Commission will hear oral argument in an appeal by Joseph John VanCook from the decision of an administrative law judge. The law judge found that VanCook, a registered representative formerly associated with Pritchard Capital Partners, LLC, willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Exchange Act Rule 10b-5 by orchestrating a fraudulent scheme involving material misrepresentations to permit his clients to ''late trade'' shares of certain registered investment companies. The law judge also found that VanCook aided and abetted and willfully caused Pritchard Capital's clearing broker to violate Rule 22c–1 of the Investment Company Act of 1940. The law judge further found that VanCook aided and abetted and willfully caused Pritchard Capital to violate Exchange Act Section 17(a)(1) and Exchange Act Rule 17a–3(a)(6) for failing to make and keep current certain books and records. For these violations, the law judge barred VanCook from association with any broker or dealer or investment company, imposed a cease-and-desist order against him, ordered disgorgement of $538,565.70, plus prejudgment interest, and assessed a $100,000 third-tier civil money penalty.

Among the issues likely to be argued are whether VanCook's conduct was fraudulent, whether he aided and abetted and/or caused a violation of Rule 22c–1, whether he aided and abetted and/or caused his firm to fail to make and keep accurate books and records, and, if so, whether and to what extent sanctions should be imposed on him.

The subject matter of the July 21, 2009 Open Meeting will be:

The Commission will hear oral argument in an appeal by the Division of Enforcement from the decision of an administrative law judge in a proceeding brought pursuant to Commission Rule of Practice 102(e). The law judge found that the conduct of Kevin Hall, CPA and Rosemary Meyer, CPA, in connection with the fiscal year (''FY'') 1999 audit of the financial statements of U.S. Foodservice, Inc. (''USF'') and the interim review of USF's second quarter FY 2000 financial statements, was not improper under the Rule.

Among the issues likely to be argued are whether Hall and Meyer failed to exercise due professional care in the planning and performance of the audit, failed to obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements under audit, and failed to act in accordance with professional standards in connection with the interim review. The parties may also address whether and to what extent Hall and Meyer should be sanctioned if they are found to have engaged in improper professional conduct.

The Commission also will hear oral argument in an appeal by Gregory O. Trautman from the decision of an administrative law judge. The law judge found that Trautman, co-founder, president, and chief executive officer of Trautman Wasserman & Company, willfully violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Exchange Act Rule 10b–5 by engaging in a scheme to defraud mutual funds and their shareholders through late trading and deceptive market timing. The law judge also found that Trautman willfully aided and abetted, and was a cause of, Trautman Wasserman & Company's violations of Exchange Act Section 15(c) and Exchange Act Rule 10b–3, and willfully aided and abetted, and was a cause of, Trautman Wasserman & Company's clearing firm's violations of Rule 22c–1 of the Investment Company Act of 1940. For these violations, the law judge barred Trautman from association with any broker or dealer, prohibited him from serving or acting in various capacities with respect to a registered investment company, imposed a cease-and-desist order, ordered disgorgement of $1,373,799.75, plus prejudgment interest, and assessed a $500,000 third-tier civil money penalty.

Among the issues likely to be argued are whether Trautman's conduct was fraudulent, whether he aided and abetted and/or caused a violation of Investment Company Act Rule 22c–1, whether he aided and abetted and/or caused his firm's violations, and, if so, whether and to what extent sanctions should be imposed on him.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: July 13, 2009.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–17000 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60272; File No. SR–NYSEArca–2009–64]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. That Extends the Suspension of NYSE Arca's Stock Price Continued Listing Standard to July 31, 2009

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 2, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through Its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), proposes to amend its rules governing NYSE Arca, LLC (also referred to as the ''NYSE Arca Marketplace'') by extending through July 31, 2009, the suspension of the application of its price criteria for capital and common stock set forth in NYSE Arca Equities Rule 5.5(b)(2).[3] The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

From mid-2008 through the first quarter of 2009, the U.S. and global equities markets experienced extreme volatility and a precipitous decline in trading prices of many securities. In response to these conditions, the Exchange suspended through June 30, 2009, application of the $1.00 price requirement for capital and common stock set forth in NYSE Arca Equities Rule 5.5(b)(2).[4] A listed company falls below compliance with NYSE Arca Equities Rule 5.5(b)(2) if the average closing price of its stock falls below $1.00 over a consecutive 30 trading-day period (the Exchange's ''dollar price continued listing standard''). This suspension provided temporary relief to companies in response to the extreme volatility and a precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets, which the Commission had acknowledged constituted a threat to the fair and orderly functioning of the securities markets and could lead to a crisis of confidence among investors regarding the viability of companies whose stock prices have declined significantly.[5] The Exchange now proposes to extend its suspension of the dollar stock price continued listing standard through July 31, 2009.[6]

Under the proposed extended suspension of the Exchange's dollar stock price continued listing standard, companies will not be notified of new events of noncompliance with that standard during the suspension period.[7] Following the temporary rule suspension, any new events of noncompliance with the Exchange's dollar price continued listing standard will be determined based on a consecutive 30 trading-day period commencing on August 1, 2009.

The proposed extended suspension of the Exchange's dollar price continued listing standard will enable companies to remain listed in the current difficult market conditions with the prospect of a future recovery in their stock prices, potentially enabling them to comply with the applicable listing requirements upon the standard's reinstatement.[8] During the period between now and July 31, 2009, the Exchange will consider whether it is appropriate to propose further revisions to these requirements.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is designed to remove uncertainty regarding the ability of certain companies to remain listed on NYSE Arca during the current highly unusual market conditions, thereby protecting investors, facilitating transactions in securities, and removing an impediment to a free and open market.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that the suspension period under this filing commenced at the time that the proposed rule change was filed on July 2, 2009 and will continue through July 31, 2009.

[4] *See* Securities Exchange Act Release No. 59854 (May 1, 2009), 74 FR 21730 (May 8, 2009) (NYSEArca–2009–29).

[5] *See, e.g.*, Securities Exchange Act Release No. 58588 (September 18, 2008), 73 FR 55174 (September 24, 2008) (''The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Given the importance of confidence in our financial markets as a whole, we have also become concerned about sudden and unexplained declines in the prices of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences.'').

[6] The NYSE has filed an immediately effective rule filing extending its suspension of its dollar stock price continued listing standard through July 31, 2009 (the ''NYSE Amendment''). See SR–NYSE–2009–64 (filed July 2, 2009).

[7] One NYSE Arca listed company was below compliance with the dollar stock price continued listing standard at the time of commencement of the suspension. This company has since regained compliance.

[8] A company would continue to be subject to delisting for failure to comply with other listing requirements.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to extend, through July 31, 2009, the temporary suspension of its $1.00 price continued listing requirement for capital and common stock. The Commission notes that the extension of the temporary suspension will continue to provide certain companies with temporary relief from receiving a non-compliance or delisting notification, or from being delisted, and will provide some additional time to allow companies to regain compliance after the market volatility and conditions experienced earlier this year and last fall. The Commission notes that this action is temporary in nature. Further, companies will continue to be subject to delisting for failure to comply with other listing requirements during the suspension period. For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 Exchange Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–64 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–64. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–64 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16808 Filed 7–15–09; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60268; File No. SR–CHX–2009–06]**

## Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adding the Voluntary De-Registration Rule

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), [1] and Rule 19b–4 [2] thereunder, notice is hereby given that on July 7, 2009, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. CHX has filed this proposal pursuant to Exchange Act Rule 19b–4(f)(6) [3] and requests that the Commission waive the 30-day pre-operative waiting period contained in Exchange Act Rule 19b–4(f)(6)(iii).[4] If such waiver is granted by the Commission, this rule proposal, which is effective upon filing with the Commission, shall become immediately operative.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] 17 CFR 240.19b–4(f)(6)(iii).

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

CHX proposes to amend its rules to add a rule to Article 17 (governing CHX-registered Institutional Brokers) to notify the Exchange when they seek to voluntarily deregister as an Institutional Broker. The text of this proposed rule change is available on the Exchange's Web site at (*http://www.chx.com*) and in the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to add a rule to Article 17, which governs the rights and obligations of Participant firms registered with the Exchange as Institutional Brokers (''Institutional Brokers''). Institutional Brokers utilize a trading platform provided for them by the Exchange and are entitled to certain rebates and credits under the Exchange's fee schedule. The proposed addition would require that an Institutional Broker notify the Exchange of its intent to voluntarily deregister as an Institutional Broker by completing the proper form and submitting it to the Exchange. Such notification would ensure that these Participants would not have unwarranted access to Exchange trading technologies and were being billed in an appropriate manner if they continue to operate as an Exchange Participant in a non-Institutional Broker capacity (e.g., as an order sending firm).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[5] and furthers the objectives of Section 6(b)(5) in particular,[6] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest by allowing CHX to add a rule to Article 17 (governing CHX-registered Institutional Brokers) to notify the Exchange they seek to voluntarily deregister as an Institutional Broker by completing the proper form and submitting it to the Exchange. Such notification would ensure that these Participants would not have unwarranted access to Exchange trading technologies and were being billed in an appropriate manner if they continue to operate as an Exchange Participant in a non-Institutional Broker capacity (*e.g.,* as an order sending firm).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CHX has requested that the Commission waive the 30-day operative delay. The Exchange notes that no rule currently requires that a Participant firm notify the Exchange of its intent to voluntarily de-register as an Institutional Broker. The Exchange believes that it is important to establish such a requirement as soon as practicable to prevent unwarranted access to Exchange trading technologies. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it should further the Exchange's ability to determine who no longer should have access the Exchange's trading technologies. For this reason, the Commission designates the proposal to be operative upon filing with the Commission.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the 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–CHX–2009–06 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2009–06. This file number should be included on the subject line if e-mail is used. To help the

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). When filing a proposed rule change pursuant to Rule 19b–4(f)(6) under the Act, an Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange met this requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *Id.*

[11] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2009–06 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16860 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60273; File No. SR–NYSE–2009–64]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC To Extend Its Suspension of its Dollar Stock Price Continued Listing Standard to July 31, 2009

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 2, 2009, New York Stock Exchange LLC (the ''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal eligible for immediate effectiveness pursuant to Rule 19b–4(f)(6)[3] under the Exchange Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend through July 31, 2009, the suspension of the application of its price criteria for capital and common stock set forth in Section 802.01C of the Exchange's Listed Company Manual (the ''Manual'').[4]

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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

From mid-2008 through the first quarter of 2009, the U.S. and global equities markets experienced extreme volatility and a precipitous decline in trading prices of many securities. As a consequence of these market conditions, the Exchange experienced an unusually high number (as compared to historical levels) of listed companies having stock prices that either fell below the Exchange's $1.00 price requirement for capital and common stock set forth in Section 802.01C of the Manual (i.e., the average closing price of their stock has fallen below $1.00 over a consecutive 30 trading day period) (the NYSE's ''dollar price continued listing standard'').[5] In response, the Exchange suspended the application of the dollar price continued listing standard until June 30, 2009.[6] This suspension provided temporary relief to companies in response to the extreme volatility and a precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets, which the Commission had acknowledged constituted a threat to the fair and orderly functioning of the securities markets and could lead to a crisis of confidence among investors regarding the viability of companies whose stock prices have declined significantly.[7]

Since the initial suspension of the Exchange's dollar price continued listing standard, market conditions have improved somewhat and a significant number of companies have cured their noncompliance with that standard. However, major market indices have recovered only a fraction of their losses and are still significantly below the levels of the first half of 2008.

[3] 17 CFR 240.19b–4(f)(6).

[4] The Commission notes that the suspension period under this filing commenced at the time that the proposed rule change was filed on July 2, 2009 and will continue through July 31, 2009.

[5] Section 802.01C provides that a company will be considered to be below compliance standards if the average closing price of a security as reported on the consolidated tape is less than $1.00 over a consecutive 30 trading day period. Once notified, the company must bring its share price and average share price back above $1.00 by six months following receipt of the notification. A company is not eligible to follow the cure procedures outlined in Sections 802.02 and 802.03 with respect to this criteria. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency or be subject to suspension and delisting procedures. In the event that at the expiration of the six-month cure period, both a $1.00 share price and a $1.00 average share price over the preceding 30 trading days are not attained, the Exchange will commence suspension and delisting procedures. Notwithstanding the foregoing, if a company determines that, if necessary, it will cure the price condition by taking an action that will require approval of its shareholders, it must so inform the Exchange in the above referenced notification, must obtain the shareholder approval by no later than its next annual meeting, and must implement the action promptly thereafter. The price condition will be deemed cured if the price promptly exceeds $1.00 per share, and the price remains above the level for at least the following 30 trading days.

[6] *See* Securities Exchange Act Release No. 59510 (March 4, 2009), 74 FR 10636 (March 11, 2009) (SR–NYSE–2009–21).

[7] *See, e.g.,* Securities Exchange Act Release No. 58588 (September 18, 2008), 73 FR 55174 (September 24, 2008) (''The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Given the importance of confidence in our financial markets as a whole, we have also become concerned about sudden and unexplained declines in the prices of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences.'').

Consequently, there are still a significantly larger number of listed companies that are below compliance with the dollar price continued listing standard than the historical norm. As such, the Exchange proposes to extend the period of the suspension by an additional month, through July 31, 2009. The Exchange believes that doing so will potentially enable a number of companies that are currently below compliance with the dollar price continued listing standard, but otherwise suitable for auction market trading, to regain compliance, as has been the case with a significant number of companies during the initial period of the suspension.

Under the proposed extended suspension of the Exchange's dollar price continued listing standard, companies will not be notified of new events of noncompliance with that standard during the suspension period. Companies that were in a compliance period at the time of commencement of the suspension [8] will still be deemed to have regained compliance during the rule suspension period if, at the expiration of their respective six-month cure periods established prior to the commencement of the rule suspension, they have a $1.00 closing share price on the last trading day of the period and a $1.00 average share price based on the preceding 30 trading days. In addition, any company that was in a compliance period at the time of commencement of the rule suspension can return to compliance if on July 31, 2009, such company has a $1.00 closing share price and a $1.00 average share price based on the 30 trading days preceding the end of such month.[9] Any company that was in a compliance period at the time of commencement of the rule suspension that does not regain compliance during the suspension period will recommence its compliance period upon reinstitution of the dollar price continued listing standard and receive the remaining balance of its compliance period.[10] Following the temporary rule suspension, any new events of noncompliance with the Exchange's dollar price continued listing standard will be determined based on a consecutive 30 trading-day period commencing on August 1, 2009.

The proposed extended suspension of the Exchange's dollar price continued listing standard will enable companies to remain listed in the current difficult market conditions with the prospect of a future recovery in their stock prices enabling them to comply with the applicable listing requirements upon the standard's reinstatement. During the period between now and July 31, 2009, the Exchange will consider whether it is appropriate to propose further revisions to these requirements.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [11] of the Securities Exchange Act of 1934 (the ''Act''),[12] in general, and furthers the objectives of Section 6(b)(5) [13] of the Act in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is designed to remove uncertainty regarding the ability of certain companies to remain listed on the NYSE during the current highly unusual market conditions, thereby protecting investors, facilitating transactions in securities, and removing an impediment to a free and open market.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange 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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [16] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow NYSE to extend, through July 31, 2009, the temporary suspension of its $1.00 price continued listing requirement for capital and common stock. The Commission notes that the extension of the temporary suspension will continue to provide certain companies with temporary relief from receiving a non-compliance or delisting notification, or from being delisted, and will provide some additional time to allow companies to regain compliance after the market volatility and conditions experienced earlier this year and last fall. The Commission notes that this action is temporary in nature, and that following the suspension, companies currently in

[8] The Exchange notes that there are not currently any companies in the Exchange's delisting appeal process whose stock is continuing to trade on the Exchange that have been sent a delisting notification for noncompliance with the dollar price continued listing standard. The Exchange also notes that it is continuing to identify companies in a compliance period as below compliance with the dollar price continued listing standard, including by continuing to append an indicator to the company's stock ticker to identify it as being below compliance with that standard and including the company on a list of companies that are below compliance with that standard posted to the Exchange's Web site, unless the company regains compliance during the suspension. A company will continue to be subject to delisting for failure to comply with other listing requirements.

[9] A company will continue to be subject to delisting for failure to comply with other listing requirements.

[10] For example, if a company was four months into its compliance period for noncompliance with the dollar price continued listing standard when the suspension started and the company does not regain compliance during the suspension, the company will have an additional two months starting on August 1, 2009, to regain compliance.

[11] 15 U.S.C. 78f(b).

[12] *See* 15 U.S.C. 78a.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

the compliance period will resume at the same stage and receive the remaining balance of its compliance period if they remain non-compliant with these standards. For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 Exchange Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–64 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–64. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 am and 3 pm. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–64 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16859 Filed 7–15–09; 8:45 am]

BILLING CODE 8010–01–P

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60264; File No. SR–CBOE–2009–045]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its CBOE Stock Exchange (''CBSX'') Fees Schedule To Establish Regulatory and Inactivity Fees

July 8, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2009, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its CBOE Stock Exchange (''CBSX'') Fees Schedule to establish regulatory and inactivity fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its CBSX Fees Schedule to impose new CBSX regulatory fees[3] and an inactivity fee.[4] Currently, CBOE charges no fee to CBSX Trading Permit Holders who either apply for CBOE to act as their designated examining authority or for whom CBOE acts as the designated examining authority. However, processing these applications and acting as the regulatory authority can be costly and time-intensive, so it is necessary that CBOE be compensated for these expenses so that CBOE can pay the costs associated with them. The proposed Inactivity Fee will ensure that Trading Permit Holders are sufficiently active on CBSX (CBSX is only authorized to issue 100 CBSX Trading Permits). The Exchange believes the regulatory fees are reasonable in that they help offset costs incurred in connection with CBSX regulation. The Exchange also believes the inactivity fee is appropriate since CBSX is only permitted to issue a finite number of Trading Permits and when

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that the proposed regulatory fees are as follows:

Initial Regulatory Review Fee: This fee is charged to any CBSX Trading Permit Holder applicant that applies for a CBSX Trading Permit that, if approved, would result in CBOE serving as the Trading Permit Holder's designated examining authority. The amount of the fee is $2,500.

Monthly Regulatory Fee: This fee is charged to any CBSX Trading Permit Holder for whom CBOE acts as the Trading Permit Holder's designated examining authority. The amount of the fee is $2,500 per month.

[4] The Commission notes that the proposed inactivity fee is as follows:

This fee is charged to any CBSX Trading Permit Holder that trades less than an average of 50,000 shares per day over a calendar month period. This fee will be calculated monthly. The amount of this fee is $5,000 per month.

permits are occupied by users that don't engage in meaningful trading on CBSX, it could be at the expense of a potential permit holder that might be willing to add meaningful liquidity to the CBSX marketplace.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[5] in general, and furthers the objectives of Section 6(b)(4)[6] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder. 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2009–045 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CBOE–2009–045. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2009–045 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16858 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 C.F.R. 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60261; File No. SR–NYSE–2009–60]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC in Connection With the Proposal of NYSE Euronext To Require That at Least Three-Fourths of Its Directors Satisfy Independence Requirements

July 8, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 23, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is submitting this rule filing in connection with the proposal of its ultimate parent, NYSE Euronext (the ''Corporation''),[4] to amend its bylaws and Director Independence Policy to require that at least three-fourths of the members of its Board of Directors shall satisfy the independence requirements for directors of the Corporation. Currently the bylaws and Director Independence Policy require that all members of the Board of Directors, other than the Chief Executive Officer and the Deputy Chief Executive Officer, shall satisfy the independence requirements.[5] The text of the proposed rule change is attached hereto as Exhibit 5 [sic], and is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The NYSE, a New York limited liability company, is an indirect wholly-owned subsidiary of NYSE Euronext.

[5] *See* Section 3.4 of the ''Amended and Restated Bylaws of NYSE Euronext.'' The provisions of any other internal policy documents of the Corporation containing substantially equivalent language will be modified to conform with the proposed Bylaw and Director Independence Policy changes.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Currently, the Bylaws of the Corporation, which is the ultimate parent company of the Exchange, require that ''all members of the Board of Directors, other than the Chief Executive Officer and the Deputy Chief Executive Officer, shall satisfy the independence requirements for directors of the Corporation, as modified and amended by the Board of Directors from time to time.'' Similarly, the Director Independence Policy of the Corporation states that ''[e]ach Director (other than the Chief Executive Officer and the Deputy Chief Executive Officer), including the Chairman of the Board and the Deputy Chairman of the Board if not also the Chief Executive Officer or the Deputy Chief Executive Officer, shall be independent within the meaning of this Policy.'' The Corporation desires to amend both documents to strike a more appropriate balance between the independence requirements and other qualifications of its directors. Specifically, the Corporation proposes to revise the independence standard in the Bylaws to provide that, ''At least three-fourths of the members of the Board of Directors shall satisfy the independence requirements for directors of the Corporation, as modified and amended by the Board of Directors from time to time.'' [6] The three-fourths requirement will still adequately protect the independent judgment of the Board of Directors (''Board''), which the Corporation believes is essential to the quality of Board oversight, while permitting the Corporation to consider a broader range of experienced and knowledgeable individuals as directors.[7] The current Bylaw provision eliminates from consideration as potential directors of the Corporation a substantial number of individuals who could contribute significantly to the deliberations of the Corporation's Board by virtue of their knowledge, ability and experience. For example, an executive of a U.S. company listed on NYSE could not serve as a member of the Board. Such a restriction deprives the Corporation of the proven judgment and valuable insights that such individuals might contribute to the Board's decision-making process. There are other categories of individuals who fail the independence requirements for other reasons, yet who nonetheless could make significant contributions as directors of the Corporation.

The proposed three-fourths standard for independence remains higher than the majority standard that the Commission has accepted and approved in comparable circumstances. For example, the ''Corporate Governance Guidelines'' of the NASDAQ OMX Group, Inc., which is the parent company of the NASDAQ Stock Market LLC, state, ''The Board of NASDAQ OMX is comprised of a majority of directors, who qualify as 'independent directors' under the Marketplace Rules of The NASDAQ Stock Market and Securities and Exchange Commission requirements.'' [8] The NYSE's own corporate governance standards for its listed companies provide that, ''Listed companies must have a majority of independent directors.'' [9] Finally, the Commission's own 2004 release on ''Fair Administration and Governance of Self-Regulatory Organizations'' proposed ''that the board of each exchange and association be composed of a majority of independent directors.'' [10] In the latter case, there would be no justification for holding the governing board of the ultimate parent of an exchange to a higher standard than the governing board of the exchange itself. Consequently, there is adequate precedent with respect to the proposed rule change.

The proposed amendment to the Bylaws and Director Independence Policy will not alter or amend the standards by which the Corporation makes a determination regarding whether an individual director is independent. In addition, the proposed amendment will not affect in any way the independence requirements of the Exchange with respect to its directors or the director independence requirements of any of the other self-regulatory organizations for which the Corporation is the ultimate parent or of NYSE Group, Inc., the intermediate holding company, including in each case the number of required independent directors.[11] The proposed amendment will also not affect in any way the other director qualification requirements set out in the Bylaws of the Corporation.[12]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [13] of the Act, in general, and furthers the objectives of Section 6(b)(5) [14] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the

[6] The corresponding revised language in the Director Independence Policy would state, ''At least three-fourths of the Directors shall be independent within the meaning of this Policy.''

[7] There are currently 18 directors on the Board, including the Chief Executive Officer and the Deputy Chief Executive Officer. The Bylaws currently require 16 of the directors (i.e., all but the two aforementioned employees) to be independent. The proposed amendment to the Bylaws would require a minimum of 14 of the directors to be independent.

[8] *See* ''The NASDAQ OMX Group, Inc. Corporate Governance Guidelines,'' Section III.B. (Independence of Non-Employee Directors).

[9] *See* ''NYSE Listed Company Manual,'' Section 303A.01 (Independent Directors).

[10] *See* Securities Exchange Act Release No. 50699 (November 18, 2004), 69 FR 71126 (December 8, 2004), Section II.B.2 (Board Consisting of a Majority of Independent Directors).

[11] In its 2006 release approving the NYSE's business combination with Archipelago Holdings, Inc. (the ''Arca Approval Release''), the Commission noted that it ''* * * does not believe that there is only one method to satisfy the fair representation requirements of Section 6(b)(3) of the Act, and reviews each SRO proposal on its own terms to determine if it is consistent with the Act.'' *See* Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (File No. SR–NYSE–2005–77), 11259, note 97. In this regard, the ''fair representation candidate'' on the NYSE board is required by the NYSE's operating agreement to be independent, and the Arca Approval Release notes that even a fully independent board could be consistent with the Act and the fair representation requirement, in which case ''the candidate or candidates selected by members would have to be independent.'' 71 FR at 11260. Among other things, the NYSE board oversees NYSE Regulation, Inc., a not-for-profit independent subsidiary that conducts the regulatory function of NYSE on its behalf pursuant to contractual and other arrangements. Consequently, the Commission stated its conclusion in the Arca Approval Release that ''[t]he NYSE's proposed requirement that 20% of the directors of the boards of directors of New York Stock Exchange LLC, NYSE Market, and NYSE Regulation be chosen by members and the means by which they will be chosen satisfies the fair representation of members in the selection of directors and the administration of the exchange consistent with the requirements in Section 6(b)(3) of the Act.'' 71 FR at 11259.

[12] E.g., Section 3.2 (Certain Qualifications for the Board of Directors) of the Bylaws.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that, because the proposed rule change will permit the Corporation to consider a broader range of experienced and knowledgeable individuals to serve as directors of the Corporation while also preserving the principle that effective boards of directors exercise independent judgment in carrying out their responsibilities, it will thereby contribute to perfecting the mechanism of a free and open market and a national market system and is also consistent with the protection of investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2009–60 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–60. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–60 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16857 Filed 7–15–09; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60274; File No. SR–ISE–2009–48]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Foreign Currency Options Closing Settlement Values

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 2, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The ISE proposes to amend its rules regarding Foreign Currency Options (''FX Options'').[3] The text of the proposed rule amendment is as follows, with deletions in [brackets] and additions *italicized:*

Rule 2212. Foreign Currency Options Closing Settlement Value

(a) The closing settlement value *for foreign currency options* shall be *determined by using* the *WM/Reuters Intraday Spot rate* [day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York,] on the last trading day during expiration week. [If the Noon Buying Rate is not announced by 5 p.m. Eastern time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. In the event the Noon Buying Rate is not published for an underlying currency, the Exchange will apply the WM/Reuters Closing Spot rate to determine the closing settlement value. If the Federal Reserve Bank of New York determines to publish a Noon

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ISE began trading FX options on April 17, 2007 pursuant to Commission approval. *See* Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59) (the ''FX Options Filing'').

Buying Rate in the future for a currency for which it currently does not publish such rate, the Exchange will apply the Noon Buying Rate in place of the WM/Reuters Composite Spot rate to determine the closing settlement value for such currency.]

(b) No Change.

(c) The closing settlement value[, whether based on the Noon Buying Rate or the WM/Reuters Closing Spot rate,] will also be modified using the applicable modifier, i.e., 1, 10 or 100, that is used in calculating the respective modified exchange rate, and will be posted by the Exchange on its Web site.

* * * * *

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

ISE proposes to amend its rules regarding FX Options. Currently, ISE's rule for determining closing settlement value for FX Options states that the closing settlement value shall be the day's announced ''Noon Buying Rate,'' as determined by the Federal Reserve Bank of New York (''FRBNY''), on the last trading day during expiration week. If the Noon Buying Rate is not announced by 5 p.m. Eastern time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. ISE's experience with the Noon Buying Rate indicates that the FRBNY is becoming increasingly unreliable in the timeliness of its publication of the Noon Buying Rate. On at least one occasion earlier this year, the FRBNY delayed publication of the Noon Buying Rate. As a result, ISE resorted to the WM/Reuters Closing Spot rate, as permitted under current rules, to determine the closing settlement value for expiring FX Options.[4]

ISE recently entered into an agreement with The World Markets Company, PLC (''WM''), publisher of a number of foreign currency reference rates, pursuant to which WM will provide ISE with the WM/Reuters Intraday Spot rate. The calculation methodology of the Intraday Spot rate is the same as that used for the Closing Spot rate. The only difference between the two rates is the time and frequency at which they are calculated. The Closing Spot rate is calculated at 16:00 UK time while the Intraday Spot rates are calculated every hour. Going forward, instead of using the Noon Buying Rate, the Exchange intends to use the WM/Reuters Intraday Spot rate, as of 12 p.m., New York time, to determine closing settlement value for all the currency pairs approved in the FX Options Filing. As noted above, the WM/Reuters Intraday Spot rate is calculated every hour, from Monday 7 a.m. Sydney time (Sunday 5 p.m. New York time) to Friday 10 p.m. UK time (Friday 5 p.m. New York time). Those times are also known as the 'fix' times. WM/Reuters typically publishes its rates 15 minutes after the fix time. The Reuters System is the primary source of spot foreign exchange rates used in the calculation of the WM/Reuters Intraday Spot rate. WM/Reuters, however, may use alternative sources such as a country's Central Bank or rates from EBS, which is another major FX venue and market data service provider for 156 currencies, including all of the currencies approved by the FX Options Filing.

WM/Reuters has two main methods for calculating its Intraday Spot rate. The methodology used depends on whether a currency is determined by WM/Reuters to be a ''trade currency'' or a ''non-trade currency.''[5] WM/Reuters applies a unique methodology for each category. Intraday Spot rates for ''non-trade currencies'' are determined primarily by using data from Reuters. This methodology involves taking snapshots of quoted bids and offers for each currency at 15-second intervals over a two minute period. The median is then calculated independently for each currency's bid and offer. The midpoint of that median bid and offer becomes the final value.

Intraday Spot rates for ''trade currencies'' are determined primarily by using data from both Reuters and EBS. This methodology involves taking snapshots of actual traded rates every second for a period of 30 seconds before the fix to 30 seconds after the fix. Trades are identified as a bid or offer and a spread is applied to calculate the opposite bid or offer. The spread applied is determined by the spread between buy and sell orders captured at the same time. The median is then independently calculated for each currency's bid and offer, resulting in a midpoint trade rate. The midpoint of that median bid and offer becomes the final value.

ISE proposes to amend its rules by replacing all references to the FRBNY's Noon Buying Rate with WM/Reuters Intraday Spot rate. This proposed rule change will allow the Exchange to adopt an industry-recognized vendor for foreign currency rates and do so without causing any disruption in the calculation of the closing settlement value for FX Options.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's[7] requirements that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the proposed rule change will allow the Exchange to adopt an industry-recognized value to determine the closing settlement value for FX Options traded on the Exchange.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that

[4] Pursuant to the FX Options Filing, the Exchange has the ability to use the WM/Reuters Closing Spot rate for six currencies to determine their closing settlement value because the FRBNY does not publish a Noon Buying Rate for these currencies. Those six currencies are the Czech koruna, the Hungarian forint, the Israeli shekel, the Korean won, the Polish zloty and the Russian ruble.

[5] The Australian dollar, British pound, Canadian dollar, Czech koruna, Danish krone, euro, Japanese yen, New Zealand dollar, Norwegian krone, Singapore dollar, South African rand, Swedish krona, and Swiss franc are all considered by WM/Reuters to be ''trade currencies,'' while all others are considered ''non-trade currencies.'' All of the ''trade currencies'' have been approved for trading by the Exchange except the Danish krone and the Singapore dollar. *See supra* note 1.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change as required by Rule 19b–4(f)(6).[8] For the foregoing reasons, the Exchange believes the proposed rule filing qualifies for expedited approval as a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 of the Act.

The Exchange believes the proposed rule change is non-controversial in that it will allow the Exchange to adopt an industry-recognized value to determine the closing settlement value for FX Options traded on the Exchange. The Exchange also believes that the proposed rule change does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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–ISE–2009–48 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2009–48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2009–48 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16854 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60265; File No. SR–NASDAQ–2009–058]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify Port Fees

July 8, 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 24, 2009, The NASDAQ Stock Market LLC (''NASDAQ'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

NASDAQ proposes to modify fees charged to members and non-members for ports used to enter orders into NASDAQ systems. The text of the proposed rule change is available from the principal office of NASDAQ and from the Commission, and is also available at *http://www.cchwallstreet.com/nasdaq*. NASDAQ will implement the proposed rule change on the first day of the month immediately following Commission approval (or on the date of approval, if on the first business day of a month).

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

NASDAQ is proposing to increase the monthly fee that it charges for ports used to enter orders in NASDAQ trading systems such as the NASDAQ Market Center and the NASDAQ Options Market. The change, which increases the charge from $400 to $500 per month, applies to ports using FIX, RASH, and OUCH. The change does not affect ports used to receive market data, to enter quotes, or to enter trade reports into the FINRA/NASDAQ Trade Reporting Facility. The change applies both to members that obtain ports for direct access, and non-member service bureaus that act as a conduit for orders entered by NASDAQ members that are their customers.

NASDAQ has not made any significant changes to the fees that it charges for access to its market facilities since it began to operate as a national securities exchange in 2006. During that period, however, the market has undergone dramatic changes, including the implementation of Regulation NMS, the entry of several significant new trading venues, extreme market volatility resulting from the credit crisis in the late 2008, and a marked increase in the percentage of orders being executed away from transparent public markets. Accordingly, NASDAQ believes that an increase in access services fees is now warranted to help ensure that its market technology continues to perform at a high level of responsiveness and efficiency.

NASDAQ is also modifying the language of Rule 7015 to make it clear that access service fees apply to access provided to all NASDAQ-operated systems, to replace references to NASD with references to FINRA, and remove obsolete language regarding a trial discount that ended in 2007. Finally, NASDAQ is removing language regarding the applicability of the rule to members and non-members. Because the current rule has been previously approved for applicability to members and non-members, and because this filing likewise applies to both members and non-members, the existing language is unnecessary and potentially confusing to the reader.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general and with Section 6(b)(4) of the Act,[4] as stated above [sic], in that it provides an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using the [sic] its facilities. NASDAQ believes that its modified access services fees are reasonable in light of the benefits to members of direct market access, and are equitably allocated among members based upon the number of access ports that they require to submit orders to the market. NASDAQ believes that its fees for access services will enable it to cover its costs and earn an appropriate return on its investment in market technology and services.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Fees for market access are a component of the overall fees charged by NASDAQ to execute and route orders through the NASDAQ Market Center. As the Commission has recognized, the market for execution and routing services is extremely competitive.[5] Market participants that choose not to connect directly to NASDAQ can readily access liquidity available on NASDAQ by directing their order flow to other venues that, under Regulation NMS, must route to NASDAQ if it has posted the best price. Accordingly, NASDAQ must set its fees, including access services fees, at a level that will not deter market participants from connecting to NASDAQ: Otherwise, potential users of NASDAQ's services will simply direct order flow to NASDAQ's multiple competitors.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2009–058 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2009–058. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2009–058 and

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

[5] Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21).

should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16856 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60278; File No. SR–NYSE–2009–67]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto Extending a Temporary Equity Transaction Fee for Shares Executed on the NYSE MatchPoint[SM] System

July 10, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 6, 2009, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On July 8, 2009, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend a temporary equity transaction fee for shares executed on the NYSE MatchPoint[SM] (''NYSE MatchPoint'' or ''MatchPoint'') system, effective upon filing through July 31, 2009. The Exchange will charge each member organization using the MatchPoint system a per share fee scaled to the average daily volume of shares it executes on the MatchPoint system. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On January 7, 2009, the Exchange filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to adopt a temporary equity transaction fee for shares executed on the NYSE MatchPoint[SM] system, effective until February 28, 2009 (the ''January filing'').[5] On February 26, 2009, the Exchange filed with the Commission a proposed rule change to extend this temporary equity transaction fee until April 30, 2009 (the ''March filing'').[6] On April 29, 2009, the Exchange filed with the Commission a proposed rule change to further extend this temporary equity to transaction fee until June 30, 2009 (the ''April filing'').[7] Through this filing, the Exchange proposes to extend this equity transaction fee to be effective upon filing through July 31, 2009.

Prior to the January filing, the equity transaction fee was $.0015 per share executed on the MatchPoint system. In the January filing, the Exchange proposed to adopt a scaled fee for MatchPoint users based on the average daily volume of shares executed during a calendar month through the MatchPoint system as follows:

| Average daily volume of shares executed | Rate (per share) |
|---|---|
| 50,000 shares or less | $.0015 |
| Over 50,000 to 499,999 | .0010 |
| 500,000 and greater | .0005 |

The March and April filings proposed to continue this fee schedule.

The Exchange believes that the extension of the fee schedule through July 31, 2009 will continue to reward those who have been using the MatchPoint system for share execution, and will provide a continued incentive for new participants in MatchPoint.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'')[8] for the proposed rule change is the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes the fees are reasonable in that they carry forward a reduction in fees that the January filing established and that the March and April filings extended, and are equitable in that they are available to all members who access the MatchPoint system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

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.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 made a technical correction to the proposed changes to the NYSE Fee Schedule.

[5] *See* Securities Exchange Act Release No. 59229 (January 12, 2009) 74 FR 3119 (January 16, 2009) (SR–NYSE–2009–01).

[6] *See* Securities Exchange Act Release No. 59491 (March 3, 2009) 74 FR 10107 (March 9, 2009) (SR–NYSE–2009–20).

[7] *See* Securities Exchange Act Release No. 59864 (May 5, 2009) 74 FR 22194 (May 12, 2009) (SR–NYSE–2009–44).

[8] 15 U.S.C. 78a.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–67 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–67. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–67 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9–16855 Filed 7–15–09; 8:45 am]

**BILLING CODE 8010–01–P**

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions to OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Reports Clearance Officer to the addresses or fax numbers shown below.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1332 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

SSA has submitted the information collections we list below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than August 17, 2009. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–3758 or by writing to the above email address.

1. *Appointed Representative Services—0960–0732.* SSA uses Form SSA–1699 to register the following people:

- Individuals appointed as representatives;
- Individuals who will perform advocacy services on behalf of an appointed representative;
- Individuals who will act on behalf of an appointed representative and want access to our electronic services; and
- Individuals who will serve as administrators for an entity appointed as a representative.

By registering these individuals, SSA: (1) Authenticates and authorizes them to do business with us; (2) allows them access to our records for the claimants they represent; (3) facilitates direct payment of authorized fees to appointed representatives; and (4) collects information needed to meet IRS requirements to issue specific IRS forms, if we pay these representatives in excess of a specific amount ($600).

This information collection request is for changes we will implement later in the year. The respondents are appointed claimant representatives.

*Type of Request:* Revision to an OMB approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated annual burden (hours) |
|---|---|---|---|---|
| SSA–1699 (paper form) | 52,800 | 1 | 30 | 26,400 |
| Internet-based SSA–1699 | 13,200 | 1 | 22 | 4,840 |
| Totals | 66,000 | | | 31,240 |

[11] 17 CFR 200.30–3(a)(12).

2. *Electronic Records Express (Third Parties)—20 CFR 404.1700–404.1715—0960–0767.* Electronic Records Express is an online system that enables medical providers and various third party representatives to submit disability claimant information electronically to SSA as part of the disability application process. We are adding a new functionality for third parties who use this system.

*Type of Request:* Revision of an existing OMB-approved information collection.

*Number of Respondents:* 6,000.

*Frequency of Response:* 40.

*Average Burden per Response:* 1 minute.

*Estimated Annual Burden:* 44,000 hours.

Dated: July 6, 2009.

**John Biles,**

*Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.*

[FR Doc. E9–16906 Filed 7–15–09; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF STATE

**[Public Notice 6698]**

### 60-Day Notice of Proposed Information Collection: DSP–0122, Supplemental Registration for the Diversity Immigrant Visa Program

*Title:* 60-Day Notice of Proposed Information Collection: DSP–0122, Supplemental Registration for the Diversity Immigrant Visa Program, OMB No. 1405–0098.

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Supplemental Registration for the Diversity Immigrant Visa Program.
- *OMB Control Number:* 1405–0098.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Office of Visa Services.
- *Form Number:* DSP–122.
- *Respondents:* Diversity visa applicants.
- *Estimated Number of Respondents:* 60,000.
- *Estimated Number of Responses:* 60,000.
- *Average Hours Per Response:* 30 minutes.
- *Total Estimated Burden:* 30,000.
- *Frequency:* Once per application.
- *Obligation to Respond:* Required to obtain benefit.

**DATES:** The Department will accept comments from the public up to 60 days from July 16, 2009.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail: VisaRegs@state.gov* (the subject line of the e-mail must be DSP–122)
- *Mail (paper, disk, or CD–ROM submissions):* Chief, Legislation and Regulation Division, Visa Services—DSP–122 Reauthorization, 2401 E. Street, NW., Washington DC 20520–30106
- *Fax:* (202) 663–3898

You must include the DS form number (if applicable); information collection title, and OMB control number in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E. Street, NW. L–603, Washington, DC 20520, who may be reached at (202) 663–2951.

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

*Abstract of Proposed Collection:*

The Kentucky Consular Center (KCC) will register selected Diversity Visa lottery entries and then send the applicant an Instruction Package for Immigrant Visa Applicants, which consists of DS–122 (Supplemental Registration for the Diversity Immigrant Visa Program) and DS–230 (Application for Immigrant Visa and Alien Registration Part I and II). In order for an applicant to be considered documentarily qualified for a visa, the applicant must complete and return both of the above-mentioned forms to KCC. Upon receipt of these forms KCC will transmit the Immigrant Visa Appointment Package and schedule an appointment for the applicant.

*Methodology*

Applicants must return the completed form to the KCC via mail.

Dated: June 22, 2009.

**David T. Donahue,**

*Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.*

[FR Doc. E9–16930 Filed 7–15–09; 8:45 am]

BILLING CODE 4710–06–P

## DEPARTMENT OF STATE

**[Public Notice 6700]**

### Notice of Request for Public Comments

*Title:* 60-Day Notice of Proposed Information Collection: DS–1884, Petition to Classify Special Immigrant Under INA 203(b)(4) as an Employee or Former Employee of the U.S. Government Abroad, OMB Control Number 1405–0082.

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Petition to Classify Special Immigrant Under INA 203(b)(4) as an Employee or Former Employee of the U.S. Government Abroad.
- *OMB Control Number:* 1405–0082.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Office of Visa Services (CA/VO).
- *Form Number:* DS–1884.
- *Respondents:* Aliens petitioning for immigrant visas under INA 203(b)(4).
- *Estimated Number of Respondents:* 300 per year.
- *Estimated Number of Responses:* 300 per year.
- *Average Hours Per Response:* 10 minutes.
- *Total Estimated Burden:* 50 hours per year.
- *Frequency:* Once per petition.
- *Obligation to Respond:* Required to Obtain Benefit.

**DATES:** The Department will accept comments from the public up to 60 days from September 14, 2009.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail: VisaRegs@state.gov* (Subject line must read DS–1884 Reauthorization).
- *Mail (paper, disk, or CD–ROM submissions):* Chief, Legislation and Regulation Division, Visa Services—DS–1884 Reauthorization, 2401 E. Street, NW., Washington DC 20520–30106.
- *Fax:* (202) 663–3898.

You must include the DS form number, information collection title, and OMB control number in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E. Street, NW., L–603, Washington, DC 20522, who may be reached at (202) 663–2951 or *prosnikla@state.gov.*

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

*Abstract of Proposed Collection*

DS–1884 solicits information from petitioners for special immigrant classification under section 203(b)(4) of the Immigration and Nationality Act. An alien is classifiable as a special immigrant under section 203(b)(4) if they meet the statutory qualifications in INA section 101(a)(27)(D). A petitioner may apply within one year of notification by the Department of State that the Secretary has approved a recommendation that special immigrant status be accorded to the alien. DS–1884 solicits information that will assist the consular officer in ensuring that the petitioner is statutorily qualified to receive such status, including meeting the years of service and exceptional service requirements.

*Methodology*

Petitioners will submit this form to consular officers at post.

Dated: May 28, 2009.

**David T. Donahue,**

*Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.*

[FR Doc. E9–16938 Filed 7–15–09; 8:45 am]

**BILLING CODE 4710–06–P**

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## DEPARTMENT OF STATE

**[Public Notice 6699]**

## 60-Day Notice of Proposed Information Collection: DS–3032, Choice of Address and Agent for Immigrant Visa Applicants, OMB No. 1405–0126

**AGENCY:** State Department.

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Choice of Address and Agent for Immigrant Visa Applicants.
- *OMB Control Number:* 1405–0126.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Office of Visa Services.
- *Form Number:* DS–3032.
- *Respondents:* All immigrant visa applicants.
- *Estimated Number of Respondents:* 330,000.
- *Estimated Number of Responses:* 330,000.
- *Average Hours Per Response:* 10 minutes.
- *Total Estimated Burden:* 55,000 hours.
- *Frequency:* Once per application.
- *Obligation to Respond:* Required to obtained benefit.

**DATES:** The Department will accept comments from the public up to 60 days from July 16, 2009.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail: VisaRegs@state.gov* (Subject line must read DS–3032 Reauthorization).
- *Mail (paper, disk, or CD–ROM submissions):* Chief, Legislation and Regulation Division, Visa Services—DS–3032 Reauthorization, 2401 E. Street, NW., Washington, DC 20520–30106.
- *Fax:* (202) 663–3898.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E. Street, NW., L–603, Washington, DC 20522, who may be reached at (202) 663–2951.

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

*Abstract of Proposed Collection*

When an approved immigrant visa petition is received at the National Visa Center (NVC) and is determined to be current for processing, NVC will send the petition beneficiary Form DS–3032, which allows the beneficiary to choose an agent to receive mailings from NVC and assist in the paperwork or paying required fees. The applicant is not required to choose an agent and may have all mailings sent to an address abroad. However, the alien's case will be held at NVC until the signed form is returned. If the form is not returned within one year, NVC will begin the case termination process. DS–3032 is not required if a G–28 (Notice of Entry of Appearance as Attorney or Representative) is received from DHS and the attorney is the agent, the alien is self-petitioning, or a child is being adopted. Once the form has been signed and returned to NVC the applicant process will proceed.

*Methodology*

DS–3032 will be submitted via mail to the National Visa Center.

Dated: May 28, 2009.

**David T. Donahue,**

*Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.*

[FR Doc. E9–16936 Filed 7–15–09; 8:45 am]

**BILLING CODE 4710–06–P**

## DEPARTMENT OF STATE

**[Public Notice 6697]**

## Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Community College Initiative Program

*Announcement Type:* New Cooperative Agreement.

*Funding Opportunity Number:* ECA/A/S/U–10–01.

*Catalog of Federal Domestic Assistance Number:* 19.009.

*Key Dates:*

*Application Deadline:* September 25, 2009.

*Executive Summary:*

The Bureau of Educational and Cultural Affairs (ECA) announces an open competition for one or more assistance awards to administer the Community College Initiative Program, which will support study by international undergraduate students at accredited U.S. community colleges. The Program provides quality educational programs, professional development, employment skills and a first-hand understanding of American society to underserved, non-elite international students, particularly women, who already have some work experience. The Bureau anticipates supporting students from developing countries in every world region in this program including (subject to change) such countries as Brazil, Indonesia, Pakistan, and South Africa, as well as other countries. Community college consortia and other associations of community colleges meeting the provisions described in Internal Revenue Code section 501(c) may submit proposals to cooperate with the Bureau in the administration and implementation of the 2010 Community College Initiative Program. For planning purposes, the Bureau invites proposals from eligible organizations for a program at a total funding level of approximately $8.5 million pending availability of FY2010 resources. Applicants may apply to administer the entire program or a portion thereof. Applicant organizations should indicate the number of participants that can be accommodated at the requested funding level based on detailed calculations of program and administrative costs. In order to maximize the number of participants under this program, it is the Bureau's expectation that significant institutional and private sector funding and cost sharing will be made available by cooperating institutions. We anticipate that approximately 250 to 275 students will participate in the FY2010 program.

### I. Funding Opportunity Description

*Authority:*

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

*Purpose:*

The Community College Initiative Program demonstrates abroad the U.S. commitment to education for all by providing access to educational opportunities to a broad sector of international students. The Bureau is engaged with the community college sector in the United States to increase the number of international students enrolled at U.S. community colleges and to reinforce community college efforts to build international ties. U.S. community colleges can make a unique contribution to international educational exchange by demonstrating the flexibility and relevance of American higher education. By providing quality technical and first-level professional education, community colleges enable students from developing countries to acquire skills and to gain experiences that will equip them to participate constructively in their countries' efforts to progress economically and politically. Community colleges can also provide a model of lower-cost, community-based, higher education that offers wide access to skills development for existing jobs.

International students selected for academic study at accredited U.S. community colleges under this program will receive educational opportunities, professional development, and an exposure to American society that will enable them to return home with unique skills and experience with which to contribute to the growth and development of their countries. Upon return, these students will be able to enter the skilled work force and fill important needs in their home countries.

*Guidelines:*

Applicants are requested to submit a narrative of no more than 20 double-spaced, single-sided pages outlining a comprehensive strategy for the administration and implementation of the Community College Initiative Program including the following program components: Identification of accredited U.S. community colleges to host participants in groups of approximately 12 students, with colleges with limited international experience hosting smaller cohorts. Host colleges should have expertise in the fields of study of the students accepted for placement.

Proposals should anticipate the placement of students in the following fields:

- Agriculture
- Applied Engineering
- Business Management and Administration
- Health Professions including Nursing
- Information Technology
- Media
- Tourism and Hospitality Management

Programs in agriculture, applied engineering, business management and administration, information technology, media, and tourism and hospitality management should last one academic year. Programs in the health professions, including nursing, may last up to 18 months. All programs of study should lead to a certificate or an Associate Degree. Programs should include unpaid internships and service learning opportunities. Academic programs should begin in Fall 2010.

Proposals should describe in detail a system for review and placement of candidates nominated by U.S. Embassies and Fulbright Commissions abroad for the approval of ECA. Proposals should also explain processes for developing and disseminating pre-departure orientation materials, registering participants in SEVIS under the Bureau's sponsorship with a program number to be provided by the Bureau, and organizing post-arrival orientation programming.

Pre-academic intensive English language training should be provided in the Spring of 2010 to those participants who lack adequate English to function effectively in the U.S. classroom as evidenced by standardized test scores.

Pre-academic English language training should take place at host colleges. Pre-arrival distance learning and in-country English training options may also be proposed. Proposals should also describe English as a Second Language programs and services at the participating colleges for students needing additional language work during the academic year.

Proposals should explain how participants will engage in enrichment activities, and should include creative ideas for exposing participants broadly to American institutions, society and culture. For example, these activities may include presentations to college classes, local schools and the community; involvement with local families; and attendance at educational and cultural events with a U.S. focus.

Proposals should also outline procedures for advising, monitoring and supporting participants; for evaluating their programs; and for follow-up with program alumni.

An applicant organization may propose to administer the entire program or a portion thereof based on the organization's interest and capacity in one or more of the specified fields. A proposal should be consistent with the applicant organization's institutional capacities and the range of fields in which the proposed host colleges have expertise.

The budget should provide funding for round-trip travel for all participants, pre-academic intensive English language training for seventy-five per cent of the participating students, tuition, books, and living costs as well as costs for program administration. An applicant organization should explain processes for providing maintenance, book, and other allowances to participating students and for paying tuition fees directly to host colleges. If possible, to streamline administrative procedures and to maintain the flexibility to respond to program developments as they occur, organizations should propose processes to provide payments to participants and colleges directly without requiring formal sub-agreements with the host colleges.

Cost-sharing is expected from organizations applying to cooperate with the Bureau on this program. Applicant organizations are encouraged to include third-party contributions in their proposals.

Proposals should demonstrate depth of experience in conducting and administering complex and multi-faceted international education programs. Proposals should provide a plan for continued follow-on activity (without Bureau support), such as tracking and maintaining updated lists of all alumni and facilitating follow-up activities with alumni, including list serves.

Programs and projects must conform with the requirements and guidelines outlined in the Solicitation Package, which includes the Request for Grant Proposals (RFGP), the Project Objectives, Goals and Implementation (POGI) and the Proposal Submission Instructions (PSI).

In a cooperative agreement, the Bureau is substantially involved in program activities above and beyond routine grant monitoring. Bureau activities and responsibilities for this program include:

(1) Participation in the design and direction of program activities;

(2) Approval of key personnel;

(3) Approval and input on program timelines and agendas;

(4) Guidance in execution of all program components;

(5) Review and approval of all program publicity and other materials;

(6) Approval of host campuses;

(7) Final selection of participating students;

(8) Approval of changes to students' proposed academic field or institution;

(9) Approval of decisions related to special circumstances or problems throughout duration of program;

(10) Assistance with SEVIS-related issues;

(11) Assistance with participant emergencies;

(12) Liaison with relevant U.S. Embassies, Fulbright commissions and country desk officers at the State Department.

Pending availability of funds, grants should begin on or around December 1, 2009 and will run through November 30, 2012. Grants will include both the administrative and program portions of the program.

## II. Award Information

*Type of Award:* Cooperative Agreement.

ECA's level of involvement in this program is listed under number I above.

*Fiscal Year Funds:* FY 2010.

*Approximate Total Funding:* $8,500,000.

*Approximate Number of Awards:* Pending the review and approval of successful proposals, the Bureau intends to make approximately one to six awards under this competition.

*Approximate Average Award:* The size of the awards will depend on the number and quality of the proposals submitted, and on the distribution of fields on which the recommended proposals focus. The maximum award available will be approximately $8,500,000. The Bureau anticipates that the minimum award available will be approximately $1,000,000.

*Anticipated Award Date:* Pending availability of funds, December 1, 2009.

*Anticipated Project Completion Date:* November 30, 2012.

*Additional Information:*

For each field of study, participants should be grouped at one or more colleges with a strong program of instruction in the field. Colleges will place participants in the fields of agriculture, applied engineering, business management and administration, information technology, media, and tourism and hospitality management in certificate programs lasting one academic year. Colleges may also place students in health professions, including nursing, in programs lasting more than one year but no more than 18 months. Programs in health professions, including nursing, should culminate in a certificate or an Associate Degree. Those proposals that focus resources on more costly programs lasting 18 months should demonstrate significant levels of cost-sharing. Subject to the availability of funds in subsequent fiscal years, it is ECA's intent to renew the cooperative agreement(s) for two additional fiscal years before openly competing it again.

## III. Eligibility Information

### *III.1. Eligible applicants*

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) that are consortia of accredited U.S. community colleges, or other combinations of multiple community college campuses. Applications must designate a lead institution to receive and administer the award.

### *III.2. Cost Sharing or Matching Funds*

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your

contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

*III.3. Other Eligibility Requirements*

(a.) Bureau grant and cooperative agreement guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. Due to the scope and complexity of this program, organizations with less than a four-year track record in conducting international exchanges are ineligible to apply under this competition.

The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

## IV. Application and Submission Information

**Note:** Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

*IV.1. Contact Information To Request an Application Package*

Please contact Karene Grad, ECA/A/S/U, SA–5, Floor 4, Department of State, Washington, DC 20522–0504; e-mail *GradKX@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/S/U–10–01 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. *Please see* section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Karene Grad and refer to the Funding Opportunity Number ECA/A/S/U–10–01 located at the top of this announcement on all other inquiries and correspondence.

*IV.2. To Download a Solicitation Package Via Internet*

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

*IV.3. Content and Form of Submission*

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA Federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, ''Return of Organization Exempt From Income Tax,'' must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. The award recipient will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, ECA/EC/D, SA–5, Floor C2, Department of State, Washington, DC 20522–0582.

Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3 Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

**Please note:** Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

Describe in your proposal your plans for: Overall program management, staffing, coordination with ECA and with community colleges enrolling groups of participants, and learning and service opportunities for participants. Please provide a staffing plan which outlines the responsibilities of each staff person and explains which staff members will be accountable for each program responsibility.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1 Applicants must submit a comprehensive budget for the complete program or a portion of the program. The total funding available for this program is approximately $8,500,000 for both program and administrative costs. Applicants may apply to administer total funds of less than $8,500,000, proportionate with the program being proposed. Please indicate clearly the number of participants to be funded and the budget total for both administrative and program costs. Applicant institutions must present a summary budget as well as breakdowns including both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2 Allowable costs for the program and additional budget guidance are outlined in detail in the POGI document.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3F Application Deadline and Methods of Submission:

*Application Deadline Date:* September 25, 2009.

*Reference Number:* ECA/A/S/U–10–01.

*Methods of Submission:*

*Applications may be submitted in one of two ways:*

(1) In hard-copy, via a nationally recognized overnight delivery service

(i.e., Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov*.

**Please Note:** ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1., below rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov webportal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

**Important note:** When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and seven copies of the application should be sent to:

Program Management Division, ECA–IIP/EX/PM, *Ref.:* ECA/A/S/U–10–01, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassies for their review.

IV.3f.2—Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

**Please Note:** ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1. above, rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the *Grants.gov* webportal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via *Grants.gov.*

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the ''For Applicants'' section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support,
*Contact Center Phone:* 800–518–4726,
*Business Hours:* Monday–Friday, 7a.m.–9 p.m. Eastern Time,
*E-mail: support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various ''application statuses'' and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Optional—IV.3f.3 You may also state here any limitations on the number of applications that an applicant may submit and make it clear whether the limitation is on the submitting organization, individual program director or both.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

## V. Application Review Information

*V.1. Review Process*

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for

advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

*1. Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission as well as the objectives of the Community College Initiative Program. Proposals should demonstrate an understanding of issues faced by countries in the developing world as related to the program goals. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity for participants placed in field-related clusters. The agenda and plan should adhere to the program overview and guidelines described above.

*2. Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the Community College Initiative Program's objectives and plan and should address each program component.

*3. Multiplier effect/impact:* Proposals should strengthen long-term mutual understanding, including maximum sharing of information and individual linkages. The proposed strategy should maximize the Program's potential to maintain community college links with Program alumni.

*4. Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

*5. Institutional Capacity and Ability:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. Proposals should describe the applicant's knowledge of, or prior experience with, international students and visitors, and the applicant's experience in educating students in the targeted subject fields. Proposals should demonstrate an institutional record of successful exchange programs involving the hosting of international students and visitors, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants or cooperative agreements. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

*6. Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events. Activities should include tracking and maintaining updated lists of all alumni and facilitating follow-up activities with alumni, including electronic list serves.

*7. Project Evaluation:* Proposals should include a plan and methodology to evaluate the program's degree of success in meeting program objectives, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded, or quarterly, whichever is less frequent.

*8. Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through institutional direct funding contributions and private sector support. Budget estimates should be as accurate as possible over the full period of the cooperative agreement.

## VI. Award Administration Information

### *VI.1a. Award Notices*

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

### *VI.2. Administrative and National Policy Requirements*

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information:
*http://www.whitehouse.gov/omb/grants.*
*http://fa.statebuy.state.gov*

### *VI.3. Reporting Requirements*

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF–PPR, ''Performance Progress Report'' Cover Sheet with all program reports;

(4) Quarterly financial reports;

(5) Annual program reports for the first and second year of the agreement.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three

years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

*VI.4. Program Data Requirements*

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

**VII. Agency Contacts**

For questions about this announcement, contact: Karene Grad, ECA/A/S/U, SA–5, Floor 4, Department of State, Washington, DC 20522–0504; e-mail *GradKX@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/U–10–01.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

**VIII. Other Information**

*Notice*

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: July 6, 2009.

**C. Miller Crouch,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E9–16926 Filed 7–15–09; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice 6696]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Arshile Gorky: A Retrospective''

**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 ''Arshile Gorky: A Retrospective,'' 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 Philadelphia Museum of Art, Philadelphia, PA, from on or about October 8, 2009, until on or about January 10, 2010; at the Museum of Contemporary Art, Los Angeles, CA, from on or about June 6, 2010, until on or about September 6, 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.

Dated: July 9, 2009.

**C. Miller Crouch,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E9–16934 Filed 7–15–09; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–32 (Sub-No. 100)]**

### Boston and Maine Corporation, Inc. and Springfiled Terminal Railway Company—Adverse Discontinuance—New England Southern Railroad Co., Inc.

On June 19, 2009, Pan Am Railways [1] and its subsidiaries, Boston and Maine Corporation, Inc. (B&M), and Springfield Terminal Railway Company (ST) (collectively, Pan Am), filed an application under 49 U.S.C. 10903 asking the Board to authorize the third-party, or ''adverse,'' discontinuance of operating authority of New England Southern Railroad Co., Inc. (NES), over approximately 27 miles of B&M's New Hampshire Main Line (Line), extending from milepost B80.68 at Penacook to milepost B56 at Manchester, NH, and including (1) the portion of the former Claremont and Concord Railroad line from the switch to the New Hampshire Main Line valuation station 41+98; and (2) one track for interchange purposes in the B&M yard at Manchester.

The line traverses United States Postal Service ZIP Codes 03101, 03106, 03301, 03303, and 03304.

Pan Am states that NES has been operating the Line under a lease which was entered into on January 14, 1985, and which provides that either party may terminate it on 90 days' written notice to the other party once the initial 10-year term expires. Pan Am states that, on or about April 27, 2007, it gave NES written notice of termination, effective on or about August 1, 2007, and indicated that it would assume operating the Line under its own operating plan. According to Pan Am, NES, in a letter dated July 21, 2007, responded that it would not file for discontinuance. Pan Am states that the adverse discontinuance is necessary to remove NES's interest in the Line from Board jurisdiction and enable Pan Am to pursue contract remedies under state law.

In a decision served in this proceeding on February 12, 2008, the Board granted a petition filed by Pan Am for exemptions from several statutory provisions and for waivers of certain Board regulations governing rail line discontinuances. The Board required Pan Am to serve a copy of the decision on all of the Line's shippers and connecting carriers, the U.S. Railroad Retirement Board, and the

[1] Formerly Guilford Rail System.

headquarters of all duly certified labor organizations [2]

Pan Am states that the Line does not contain federally granted rights-of-way. Any documentation in Pan Am's possession will be made available promptly to those requesting it. Pan Am's entire case in chief for adverse discontinuance was filed with the application.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment–Goshen,* 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed adverse discontinuance or protests (including protestant's entire opposition case) by August 30, 2009. Replies and rebuttal to written comments and protests shall be filed and served by applicants by September 14, 2009. Because Pan Am intends to conduct operations on the Line, all interested persons should be aware that this application is for adverse discontinuance and will not result in the abandonment of existing operations. Therefore, the public use provisions of 49 U.S.C. 10905 (49 CFR 1152.28) and the trail use provisions 16 U.S.C. 1247(d) (49 CFR 1152.29) will not apply.

Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest. Persons who may oppose the adverse discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Parties seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB–32 (Sub-No. 100) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Michael Q. Geary, Pan Am Railways, 1700 Iron Horse Park, North Billerica, MA 01877. Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's *http://www.stb.dot.gov* Web site, at the ''E–FILING'' link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR 1152, every document filed with the Board must be served on all parties to this adverse discontinuance proceeding. *See* 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment/discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0230 or refer to the full abandonment/discontinuance regulations at 49 CFR 1152. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: July 10, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9–16889 Filed 7–15–09; 8:45 am]

**BILLING CODE 4915–01–P**

[2] According to Pan Am's certificate of service, a copy of the waiver request was served on the Governor of New Hampshire, the New Hampshire Public Utility Commission, and the Bureau of Rail and Transit of New Hampshire.

## 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 February 2, 2009, vol. 74, no. 20, page 5885. This information is used to issue special flight authorizations for non-revenue operations of Stage 2 airplanes at U.S. airports.

**DATES:** Please submit comments by August 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Carla Mauney at *Carla.Mauney@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Federal Aviation Administration (FAA)

*Title:* Changes in Permissible Stage 2 Airplane Operations.

*Type of Request:* Extension without change of a currently approved collection.

*OMB Control Number:* 2120–0652.

*Forms(s):* There are no FAA forms associated with this collection.

*Affected Public:* An estimated 50 Respondents

*Frequency:* This information is collected on occasion.

*Estimated Average Burden Per Response:* Approximately 14.4 minutes per response.

*Estimated Annual Burden Hours:* An estimated 12 hours annually.

*Abstract:* This information is used to issue special flight authorizations for non-revenue operations of Stage 2 airplanes at U.S. airports. Only a minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of those enumerated by law.

**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 *oira_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 July 10, 2009.

**Carla Mauney,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. E9–16807 Filed 7–15–09; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2008–0165; Notice 2]**

### Medical Coaches, Inc.; Grant of Petition for Decision of Inconsequential Noncompliance

Medical Coaches, Inc. (Medical Coaches), has determined that certain model year 1996–2008 trailers did not fully comply with paragraph S5.3 of 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120 *Tire Selection and Rims for Motor Vehicles With a GVWR of More Than 4,536 Kilograms (10,000 Pounds).* Medical Coaches has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Medical Coaches has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on November 17, 2008 in the **Federal Register** (73 FR 67924). No comments were received. To view the petition and all supporting documents, log on to the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2008–0165.''

For further information on this decision, contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–0645, facsimile (202) 366–7097. Affected are approximately 310 trailers manufactured between March 14, 1996 and May 19, 2008.

Paragraph S5.3 of FMVSS No. 120 requires in pertinent part:

> S5.3 Each vehicle shall show the information specified in S5.3.1 and S5.3.2 and, in the case of a vehicle equipped with a non-pneumatic spare tire, the information specified in S5.3.3, in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either—
>
> (a) After each GAWR listed on the certification label required by Sec. 567.4 or Sec. 567.5 of this chapter; or at the option of the manufacturer,
>
> (b) On the tire information label affixed to the vehicle in the manner, location, and form described in Sec. 567.4(b) through (f) of this chapter as appropriate of each GVWR–GAWR combination listed on the certification label * * *.
>
> **Truck Example—Suitable Tire-Rim Choice**
>
> GVWR: 7,840 KG (17,289 LB)
> GAWR: FRONT—2,850 KG (6,280 LB) WITH 7.50–20(D) TIRES, 20x6.00 RIMS AT 520 KPA (75 PSI) COLD SINGLE
> GAWR: REAR—4,990 KG (11,000 LB) WITH 7.50–20(D) TIRES, 20x6.00 RIMS, AT 450 KPA (65 PSI) COLD DUAL
> GVWR: 13,280 KG (29,279 LB)
> GAWR: FRONT—4,826 KG (10,640 LB) WITH 10.00–20(F) TIRES, 20x7.50 RIMS, AT 620 KPA (90 PSI) COLD SINGLE
> GAWR: REAR—8,454 KG (18,639 LB) WITH 10.00–20(F) TIRES, 20x2.70 RIMS, AT 550 KPA (80 PSI) COLD DUAL

In its petition, Medical Coaches explained that, as of March 14, 1996, its tire and rim label information was not in full compliance with FMVSS No. 120. The combined certification/tire information labels affixed to Medical Coaches' trailers pursuant to 49 CFR Part 567 *Certification* and FMVSS No. 120 failed to comply with S5.3 of FMVSS No. 120 because metric measurements were omitted. The labels contained the correct English unit information.

Medical Coaches also stated that the combined certification/tire information labels on all trailers it manufactured since 2006 did not comply with the requirements of 49 CFR Part 567 due to the omission of metric units for gross vehicle weight rating (GVWR) and gross axle weight ratings (GAWR). The labels contained the correct English unit information.

Medical Coaches learned of its noncompliance after submitting sample labels to the National Truck Equipment Association (NTEA) for review as part of their Member Verification Program (MVP).

In summary, trailers manufactured by Medical Coaches, Inc., from March 1996 until May 19, 2008 did not comply with FMVSS No. 120 requirements for metric equivalents for tire pressure on the certification labels. Trailers manufactured by Medical Coaches from September 1, 2006 until May 19, 2008 did not comply with the requirements for metric equivalents for GVWR and GAWR on the certification labels.

Medical Coaches supported its application for inconsequential noncompliance with the following statements:

> The certification label did contain the correct information in English units and displayed this information in the correct format.
>
> The omission of the metric units is highly unlikely to have any effect whatsoever on motor vehicle safety since the correct English units were included and because of the small number of trailers involved.
>
> The metric requirements of 49 CFR 571.120 and 49 CFR 567 were not mandated for safety reasons.
>
> Several inconsequential noncompliance requests have been granted by NHTSA in the past for the omission of metric units on certification labels. These petitions involved thousands of trailers, well over the 310 involved in this petition.
>
> Medical Coaches has not received any complaints from customers on the omission of the metric data from the certification labels and is not aware of accidents or injuries caused by these omissions.
>
> Medical Coaches has purchased a certification label printing program from the NTEA that assures certification label compliance from now and into the future.
>
> Additionally, Medical Coaches states that it does not question the need and usefulness of detailing metric units on certification labels. Medical Coaches' error of omission, while regrettable, was corrected as soon as the nonconformance was realized and believes that it is now in full compliance with assurances for the future.

Medical Coaches believes the metric equivalents on certification labels, while mandated, have little affect on vehicle safety and respectfully requests that NHTSA grant a petition.

**NHTSA Decision**

Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418) makes it the United States policy that the metric system of measurement is the preferred system of weights and measures for U.S. trade and commerce. On March 14, 1995, NHTSA published in the **Federal Register** (60 FR 13693) the final rule that metric measurements be used in S5.3 of FMVSS No. 120. The effective date for this final rule was March 14, 1996. On February 14, 2005, NHTSA published in the **Federal Register** (70 FR 7430) the final rule *Vehicles Built in Two or More Stages* that included the use of combined Metric/English measurements for GVWR and GAWR on certification labels. The effective date for this final rule was September 1, 2006.

The purpose of labeling requirements in paragraph S5.3 of FMVSS No. 120 is to provide safe operation of vehicles by ensuring that vehicles are equipped with tires of appropriate size and load rating, and rims of appropriate size and type designation.

After review of Medical Coaches' petition, the agency has determined that the failure to include metric measurement units for GVWR and GAWR on the subject combined certification/tire information is a violation of 49 CFR Part 567 which draws its authority from 49 U.S.C. 30115 *Certification of Compliance.* A

violation of 49 U.S.C. 30115 does not impose notification or remedy because it is not a noncompliance with an FMVSS. Consequently, that portion of its inconsequentiality petition is moot.

However, the failure to provide metric units on the subject combined certification/tire information labels as required by FMVSS No. 120 is a noncompliance that is violation of Chapter 301.

While NHTSA strongly encourages manufacturers to include both English and Metric units on all certification and tire information labels, we do not believe that in this particular situation that the omission of metric units is likely to have any affect on motor vehicle safety. The agency agrees with Medical Coaches that the present label on these trailers is likely to achieve the safety purposes of the required information. First, all the correct English unit information required by FMVSS No. 120 is provided on the combined certification/tire information label. Second, the information contained on the label is of the correct size. Third, the information contained on the label is in the prescribed format.

In consideration of the foregoing, NHTSA has decided that Medical Coaches has met its burden of persuasion that the failure to include metric units on the combined certification/tire information labels on the subject vehicles, as required by paragraph S5.3 of FMVSS No. 120, is inconsequential to motor vehicle safety. Accordingly, Medical Coaches' application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120. All products manufactured or sold on and after May 9, 2008, must comply fully with the requirements of FMVSS No. 120.

**Authority:** 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 13, 2009.

**Daniel C. Smith**

*Associate Administrator for Enforcement.*

[FR Doc. E9–16954 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### Request for Applications for the Federal Motor Carrier Safety Administration Medical Review Board

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Request for applications for the Medical Review Board.

**SUMMARY:** FMCSA solicits applications from interested physicians to serve on the Agency's Medical Review Board (MRB). The MRB, authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), provides scientific advice to the Secretary of Transportation (the Secretary) and the FMCSA Administrator on medical issues relating to the physical qualification standards for commercial motor vehicle (CMV) drivers. In 2006, the Secretary appointed five physicians for 2-year terms to serve on the MRB. In 2008, the Secretary reappointed the physicians to the MRB, with the chairperson currently serving a 2-year term, and the other four members serving staggered 1-year terms. In 2009, the Secretary appointed two new members to a 2-year term, and reappointed two of the current members to a 1-year term to ensure the MRB continued to operate with five active members. The term of the chairman and two members will expire in 2010. Therefore, in 2010, the Secretary will appoint three new MRB members to fill the vacancies created when the three current members' terms expire. In addition, the Secretary will appoint alternates to serve if one or more of the appointed MRB members is unable to complete his/her term. The appointment of alternates ensures that the MRB will operate continuously with five active members.

**DATES:** Applications must be received by August 17, 2009. FMCSA will periodically call for applications as deemed necessary.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, 202–366–4001, FMCSA, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### I. Background

FMCSA has current statutory authority under 49 U.S.C. 31502 and 31136 to determine the physical qualifications of interstate CMV drivers. The physical qualifications regulations for commercial motor vehicle (CMV) drivers in interstate commerce are found in 49 CFR 391.41. Section 391.43 contains instructions to medical examiners for performing physical examinations of CMV drivers. FMCSA medical standards and guidelines are critical medical program components in accomplishing FMCSA's mission to reduce crashes, injuries, and fatalities involving large trucks and buses.

In 2005, Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act; A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59). Section 4116 (a) of SAFETEA–LU (codified at 49 U.S.C. 31149) required FMCSA to establish the MRB to provide scientific advice on matters related to CMV driver health and safety. The Charter for the MRB was originally approved and filed with the General Services Administration on September 20, 2005 [FR 70 57642], and renewed on November 2, 2007.

The MRB promotes CMV safety by providing science-based medical expertise on the medical qualification of CMV drivers, reviewing and revising medical standards, and interpreting medical research. These activities address the appropriateness and viability of the medical standards in the Federal Motor Carrier Safety Regulations, the framework that relates driver health to safe CMV operation. The MRB assesses and provides recommendations to FMCSA about regulations that may need to be changed or updated. FMCSA's MRB provides information, advice, and recommendations to the Secretary of Transportation and the FMCSA Administrator on the development and implementation of science-based physical qualification standards applicable to interstate CMV drivers, and implementation of a national registry of medical examiners. The MRB does not hold regulatory development responsibilities, manage programs, or make decisions affecting such programs. The MRB provides a forum for the development, consideration, and communication of information from a knowledgeable, scientific perspective. The MRB began operations in February 2006, with formal deliberations beginning in August 2006. The MRB meets 3–4 times each year and has issued many recommendations on cardiovascular diseases, seizure disorders, musculoskeletal diseases, and other topics pertinent to the certified driver medical examination.

## II. Request for Applications

FMCSA seeks physicians from many different medical specialties to develop science-based CMV physical qualification standards, medical advisory criteria and safety policies. As members of the Agency's MRB, physicians will provide expert guidance on medical guidelines and standards. FMCSA is committed to appointing physicians with diverse professional backgrounds, and taking into account gender, ethnicity, demographic and socioeconomic factors. To be eligible for appointment, physicians must: (a) Be a U.S. citizen; (b) not be a Federal government employee; (c) have a U.S. medical license (as a Medical Doctor or Doctor of Osteopathy) and is in good standing; with a State medical licensing authority; and (d) be able to attend three to four face-to-face meetings a year, three to five 1 hour teleconferences, and spend approximately 5 hours per month providing additional consultation.

Interested physicians should have a commitment to transportation safety and health, an understanding of evidence-based medicine and research methods, knowledge of transportation medical issues, history of excellence in original medical research demonstrated through publications in peer-reviewed journals, experience on panels that develop medical standards, and a record of leadership activities in transportation safety and medical professional organizations.

MRB members are special government employees under the Federal Advisory Committee Act of 1972, Public Law 92–463. While attending meetings or conducting business of the Committee, expenses for travel and subsistence or per diem allowances will be paid by FMCSA.

Applications should be submitted online at *http://www.mrb.fmcsa.dot.gov.* For additional information, please contact Jennifer Musick at 703–998–0189, extension 237, or via e-mail at *contactmrb@dot.gov.* FMCSA will accept applications through August 17, 2009, and will periodically call for applications as the MRB work continues.

Issued on: June 29, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9–16888 Filed 7–15–09; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Federal Aviation Administration (FAA) Sponsored Technical Standard Order (TSO) National Workshop

**AGENCY:** Federal Aviation Administration (DOT).

**ACTION:** Notice of national public workshop.

**SUMMARY:** This FAA sponsored workshop will bring together individuals from FAA Headquarters, Certification Directorates, including the Aircraft Certification Offices, Industry and other Aviation Authorities including the European Aviation Safety Agency (EASA), and Transport Canada Civil Aviation (TCCA) for a collaborative discussion about TSO/European (E)TSO programs.

The workshop will include presentations on:

- The Technical Standard Order (TSO) and European Technical Standard Order (ETSO) programs, which will include discussions on:
- An overview of the data from the TSOA Holder evaluations;
- Survey results on the TSO program;
- Gaps in the TSO/ETSO programs;
- Future Initiatives.

Who should attend:

- Aviation Authorities who work with TSOs/ETSOs.
- Industry participants who work with TSOs/ETSOs, including:
- Avionics manufacturers;
- TSO/ETSO installers (*i.e.* Original Equipment Manufacturers (OEMs) and Supplemental Type Certificate (STC) holders).

**DATES:**

2009—WORKSHOP SCHEDULE

| | | |
|---|---|---|
| Tuesday | September 1 | Aviation Authorities Only (FAA, EASA, TCCA) 8:30 a.m.–4 p.m. |
| Wednesday | September 2 | Open to all 8:30 a.m.–4 p.m. |
| Thursday | September 3 | Aviation Authorities Only (FAA, EASA, TCCA) 8:30 a.m.–4 p.m. |

**ADDRESSES:** The workshop will be held at the FAA Southern Regional Office, located at 1701 Columbia Ave., College Park, GA 30337.

**WORKSHOP INFORMATION:** Attendance at the conference will be limited to 350 participants. There is no charge for this workshop, however all participants must be registered in advance, no later than August 7, 2009. Agenda, Hotel, and Registration Information will be posted at: *http://www.faa.gov/aircraft/air_cert/design_approvals/tso/.* You may e-mail us at: *9–AWA–AVS–TSO–Workshop@faa.gov* if you have questions.

Issued in Washington, DC, July 9, 2009.

**Susan J. M. Cabler,**

*Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.*

[FR Doc. E9–16809 Filed 7–15–09; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

**Norfolk Southern Corporation**

[Waiver Petition Docket Number FRA–2009–0064]

Norfolk Southern Corporation (NS) has petitioned FRA for a waiver from 49 CFR 213.113(a) to permit variance from the accepted practice of stop/start rail test hand verification for a continuous rail test pilot project. The pilot project will be conducted for a period of 2 years on all main line tracks of the CNO & TP on the Central division between Cincinnati, Ohio and Chattanooga, Tennessee, milepost limits 2.4 to 338.2. NS also states that prior to beginning the pilot project, the Central division main tracks will be rail tested with a conventional stop/start rail test vehicle and any normally scheduled intervals during the pilot project will be maintained by convention stop/start rail test vehicle.

The continuous high speed rail test vehicle will be a self propelled rail-bound ultrasound Sperry car operating at speeds up to 25 miles per hour in non-stop mode making weekly runs. Upon completion of each run, data will

be analyzed offline by a group of experts with experience in this process. The analysis will categorize and prioritize suspect defect locations. Three teams of verifiers will then be sent out with field instruments to check locations based upon GPS coordinates. Locations will be checked 60 feet; either side of suspect GPS point. Remedial actions will be applied as per CFR 213.113 for confirmed rail defects.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2009–0064) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC, on July 10, 2009.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E9–16919 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–06–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2000–7918; FMCSA–2000–8398; FMCSA–2002–13411; FMCSA–2003–14504; FMCSA–2006–25246]**

### Qualification of Drivers; Exemption Renewals; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 19 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202)-366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

#### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on June 3, 2009.

#### Discussion of Comments

FMCSA received no comments in this proceeding.

#### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 19 renewal applications, FMCSA renews the Federal vision exemptions for William E. Beckley, Michael C. Boyne, Clifford D. Carpenter, Timothy H. DuBois, Alf M. Gronstedt, Dennis K. Harris, Donald E. Howell, Tommy T. Hudson, William D. Johnson, Phillip L. Mangen, Tommy R. Masterson, Clarence M. Miles, Steven M. Montalbo, Vincent Rubino, Randy G. Spilman, Wyatt W. Thayer, Jr., Thomas S. Thompson, Mikiel J. Wagner, and Robert A. Wegner.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: July 7, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9–16588 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket ID FMCSA–2009–0121]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 23 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

**DATES:** The exemptions are effective July 16, 2009. The exemptions expire on July 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://www.regulations.gov.*

## Background

On June 2, 2009, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (74 FR 26462).

That notice listed 23 applicants' case histories. The 23 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 23 applications on their merits and made a determination to grant exemptions to all of them.

## Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 23 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, prosthesis, macular scar, optical nerve damage, optic nerve atrophy, central retinal artery occlusion, and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but 7 of the applicants were either born with their vision impairments or have had them since childhood. The 7 individuals who sustained their vision conditions as adults have had them for periods ranging from 8 to 54 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 23 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 36 years. In the past 3 years, two of the drivers had convictions for traffic violations and none of the drivers was involved in a crash.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the June 2, 2009 notice (74 FR 26462).

## Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345,

March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 23 applicants, two of the applicants had traffic violations for speeding and none of the applicants was involved in a crash. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways.

Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 23 applicants listed in the notice of June 2, 2009 (74 FR 26462).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 23 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

**Discussion of Comments**

FMCSA received no comments in this proceeding.

**Conclusion**

Based upon its evaluation of the 23 exemption applications, FMCSA exempts, Daniel F. Albers, Robert L. Brown, Nicholas Cafaro, Barry G. Church, David J. Comeaux, Timothy D. Courtney, John J. Davis, Robert R. Donoho, Steven L. Forristall, Rocky D. Gysberg, Randy L. Huelster, Robert D. Kimmel, Charles H. Lefew, Steve J. Morrison, Joseph B. Peacock, Mark A. Pirl, Frank Price, Jr., Terry L. Pruitt, Joseph E. Salter, Charles A. Terry, Steven L. Thomas, Daniel A. Wescott, and Donald J. Zuza from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on July 8, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9–16900 Filed 7–15–09; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268; FMCSA–2007–27333]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 20 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these

exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective August 15, 2009. Comments must be received on or before August 17, 2009.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268; FMCSA–2007–27333, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line 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 20590–0001.
- *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., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

## Exemption Decision

This notice addresses 20 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 20 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Morris R. Beebe, II
James A. Busbin, Jr.
Domenic J. Carassai
Fred W. Duran
Bruce E. Hemmer
Steven P. Holden
Russell R. Inlow
Christopher G. Jarvela
Donald L. Jensen
Darrell D. Kropf
Brad L. Mathna
Vincent P. Miller
Warren J. Nyland
Dennis M. Prevas
Greg L. Riles
Robert N. Taylor
Calvin D. Tomlinson
Wesley E. Turner
Mona J. VanKrieken
Paul S. Yocum

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

## Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 20 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 17743; 66 FR 33990; 68 FR 35772; 70 FR 33937; 72 FR 40360; 66 FR 30502; 66 FR 41654; 68 FR 44837; 70 FR 41811; 68 FR 37197; 68 FR 48989; 70 FR 42615; 72 FR 12666; 72 FR 25831). Each of these 20 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce.

Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

## Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the

requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 17, 2009.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 20 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: July 9, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9–16899 Filed 7–15–09; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### Notice of Call for Redemption of 11¾ Percent Treasury Bonds of 2009–14

**AGENCY:** Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** As of July 15, 2009, the Secretary of the Treasury gives public notice that all outstanding 11¾ percent Treasury Bonds of 2009–14 (CUSIP No. 912810 DN 5) dated November 15, 1984, due November 15, 2014, are called for redemption at par on November 15, 2009, on which date interest on such bonds will cease.

**DATES:** Treasury calls such bonds for redemption on November 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** Definitives Section, Customer Service Branch 3, Office of Retail Securities, Bureau of the Public Debt, (304) 480–7711.

**SUPPLEMENTARY INFORMATION:**

1. *Bonds Held in Registered Form.* Owners of such bonds held in registered form should mail bonds for redemption directly to: Bureau of the Public Debt, Definitives Section, Customer Service Branch 3, P.O. Box 426, Parkersburg, WV 26106–0426. Owners of such bonds will find further information regarding how owners must present and surrender such bonds for redemption under this call, in Department of the Treasury Circular No. 300 dated March 4, 1973, as amended (31 CFR part 306); by contacting the Definitives Section, Customer Service Branch 3, Office of Retail Securities, Bureau of the Public Debt, telephone number (304) 480–7711; and by going to the Bureau of the Public Debt's Web site, *http://www.treasurydirect.gov.*

2. *Bonds Held in Book-Entry Form.* Treasury automatically will make redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in Treasury Direct accounts, on November 15, 2009.

**Richard L. Gregg,**

*Acting Fiscal Assistant Secretary.*

[FR Doc. E9–16773 Filed 7–15–09; 8:45 am]

**BILLING CODE 4810–40–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[LR–185–84]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–185–84 (TD 8086), Election of $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements (§ 1.103–10(b)(2)(vi)).

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Election of $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements.

*OMB Number:* 1545–0940.

*Regulation Project Number:* LR–185–84.

*Abstract:* This regulation liberalizes the procedure by which a state or local government issuer of an exempt small issue of tax-exempt bonds elects the $10 million limitation upon the size of such issue and deletes the requirement to file certain supplemental capital expenditure statements.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* State, local or tribal governments.

*Estimated Number of Respondents:* 10,000.

*Estimated Time Per Respondent:* 6 minutes.

*Estimated Total Annual Burden Hours:* 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16886 Filed 7–15–09; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 6252

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6252, Installment State Income.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Installment Sale Income.

*OMB Number:* 1545–0228.

*Form Number:* 6252.

*Abstract:* Internal Revenue Code section 453 provides that if real or personal property is disposed of at a gain and at least one payment is to be received in a tax year after the year of sale, the income is to be reported in installments, as payment is received. Form 6252 provides for the computation of income to be reported in the year of sale and in years after the year of sale. It also provides for the computation of installment sales between certain related parties required by Code section 453(e).

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business of other for-profit organizations, individuals or households, and farms.

*Estimated Number of Respondents:* 521,898.

*Estimated Time Per Respondent:* 3 hrs., 4 minutes.

*Estimated Total Annual Burden Hours:* 1,597,008.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103. Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16895 Filed 7–15–09; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 1120–POL

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–POL, U.S. Income Tax Return for Certain Political Organizations.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* U.S. Income Tax Return for Certain Political Organizations.

*OMB Number:* 1545–0129.

*Form Number:* 1120–POL.

*Abstract:* Certain political organizations file Form 1120–POL to report the tax imposed by Internal Revenue Code section 527. The form is used to designate a principal business campaign committee that is subject to a lower rate of tax under Code section 527(h). IRS uses Form 1120–POL to determine if the proper tax was paid.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Not-for-profit institutions.

*Estimated Number of Respondents:* 6,527.

*Estimated Time Per Respondent:* 36 hours., 38 min.

*Estimated Total Annual Burden Hours:* 239,150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 9, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16885 Filed 7–15–09; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 2009–31 and Revenue Procedure 2009–XX

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2009–31, Election and Notice Procedures for Multiemployer Plans under sections 204 and 205 of WRERA and Revenue Procedure 2009–XX, Revocation of Elections by Multiemployer Plans to Freeze Funded Status under section 204 of WRERA.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Election and Notice Procedures for Multiemployer Plans under sections 204 and 205 of WRERA.

*OMB Number:* 1545–2141.

*Notice Number:* Notice 2009–31 and Revenue Procedure 2009–XX.

*Abstract:* Notice 2009–31 provides guidance for sponsors of multiemployer defined benefit plans relating to the elections described in sections 204 and 205 of the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458 (WRERA), and on the notice required to be provided if a plan sponsor makes an election under section 204. Revenue Procedure 2009–XX provides follow-up guidance to Notice 2009–31. This new guidance describes procedures for revoking elections under WRERA.

*Current Actions:* Revenue Procedure 2009–XX was added in order to provide guidance for the previously approved Notice 2009–31. There is no change to the burden hours needed by this collection.

*Type of Review:* This is a revision of a currently approved collection.

*Affected Public:* State, local, or tribal governments.

*Estimated Number of Respondents:* 1,600.

*Estimated Average Time Per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 1,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16879 Filed 7–15–09; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 944–SS and Form 944–PR

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed

and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 944–SS, Employer's ANNUAL Federal Tax Return (American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands, and Form 944–PR, Planilla para la Declaracion ANNUAL de la Cotribucion Federal del Patrono.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Employer's Annual Federal Tax Return (American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands and Form 944–PR, Planilla para la Declaracion Annual de la Cotribucion Federal del Patrono.

*OMB Number:* 1545–2010.

*Form Number:* Form 944–SS and Form 944–PR.

*Abstract:* Form 944–SS and Form 944–PR are designed so the smallest employers (those whose annual liability for social security and Medicare taxes is $1,000 or less) will have to file and pay these taxes only once a year instead of every quarter.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profit organizations, Farms.

*Estimated Number of Respondents:* 20,000.

*Estimated Time Per Respondent:* 9 hours 34 minutes.

*Estimated Total Annual Burden Hours:* 191,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

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

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 9, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16881 Filed 7–15–09; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 637 Questionnaires

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Questionnaires A, B, C, D, E, F, H, I, J, K, M, Q, R, S, T, UP, UV, V, W, X, and Y, Form 637 Questionnaires.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of Form 637 Questionnaires should be directed to Evelyn J. Mack, (202) 622–7381, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Evelyn.J.Mack@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Form 637 Questionnaires.

*OMB Number:* 1545–1835.

*Form Number:* Questionnaires A, B, C, D, E, F, H, I, J, K, M, Q, R, S, T, UP, UV, V, W, X, and Y.

*Abstract:* Form 637 Questionnaires will be used to collect information about persons who are registered with the Internal Revenue Service (IRS) in accordance with Internal Revenue Code (IRC) section 4104 or 4222. The information will be used to make an informed decision on whether the applicant/registrant qualifies for registration.

*Current Actions:* There are no changes being made to the schedules at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 2,840.

*Estimated Average Time Per Respondent:* 1 hours, 14 minutes.

*Estimated Total Annual Burden Hours:* 3,479.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16883 Filed 7–15–09; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 6198

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6198, At-Risk Limitations.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* At-Risk Limitations.

*OMB Number:* 1545–0712.

*Form Number:* Form 6198.

*Abstract:* Internal Revenue Code section 465 requires taxpayers to limit their at-risk loss to the lesser of the loss or their amount at risk. Form 6198 is used by taxpayers to determine their deductible loss and by IRS to verify the amount deducted.

*Current Actions:* There are no changes being made to the form at this time. However, there is a change in burden. Previously the burden of this collection was 914,419 hours however, after analyzing the previous burden computation and finding an error, the burden computation has been re-evaluated, resulting in a total burden of 753,186 hours.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and individuals, not-for-profit institutions, and farms.

*Estimated Number of Respondents:* 230,332.

*Estimated Time per Respondent:* 3 hrs. 16 min.

*Estimated Total Annual Burden Hours:* 753,186.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 9, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16884 Filed 7–15–09; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 1120–W

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–W, Estimated Tax for Corporations.

**DATES:** Written comments should be received on or before September 14, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, (202) 622–6665, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Estimated Tax for Corporations.

*OMB Number:* 1545–0975.

*Form Number:* 1120–W.

*Abstract:* Under section 6655 of the Internal Revenue Code, a corporation with an income tax liability of $500 or more must make four required installments of estimated tax during the tax year or be subject to a penalty for failure to pay estimated income tax. Form 1120–W is used by corporations to compute their estimated income tax and the amount of each required installment.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 900,000.

*Estimated Time per Respondent:* 14 hrs., 16 min.

*Estimated Total Annual Burden Hours:* 12,831,766.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 9, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9–16880 Filed 7–15–09; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Designation of One Individual and One Entity Pursuant to Executive Order 13438

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of one newly designated entity and one newly designated individual whose property and interests in property are blocked pursuant to Executive Order 13438 of July 17, 2007, ''Blocking Property of Certain Persons Who Threaten Stabilization Efforts in Iraq.''

**DATES:** The designation by the Secretary of the Treasury of the entity and individual identified in this notice pursuant to Executive Order 13438 is effective on July 02, 2009.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

**SUPPLEMENTARY INFORMATION:**

### Electronic and Facsimile Availability

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

### Background

On July 17, 2007, the President issued Executive Order 13438 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.,* the National Emergencies Act, 50 U.S.C. 1601 *et seq.,* and section 301 of title 3, United States Code. In the Order, the President declared a national emergency to address the threat to the national security and foreign policy of the United States posed by acts of violence threatening the peace and stability of Iraq and undermining efforts to promote economic reconstruction and political reform in Iraq and to provide humanitarian assistance to the Iraqi people.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including any overseas branch, of the following persons: Persons who are determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, (1) To have committed, or to pose a significant risk of committing, an act or acts of violence that have the purpose or effect of threatening the peace or stability of Iraq or the Government of Iraq, or undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people; (2) to have materially assisted, sponsored, or provided financial, material, or technical support for, or goods or services in support of, such an act or acts of violence or any person whose property and interests in property are blocked pursuant to the Order; or (3) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On July 2, 2009, the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, designated, pursuant to one or more of the criteria set forth in the Order, one individual and one entity whose property and interests in property are blocked pursuant to Executive Order 13438.

The list of designees is as follows:

AL–MUHANDIS, ABU MAHDI (a.k.a. AL BASERI, Abu Mahdi; a.k.a. AL–BASARI, Abu Mahdi; a.k.a. AL–BASRI, Abu-Mahdi al-Mohandis; a.k.a. AL–IBRAHIMI, Jamal; a.k.a. AL–IBRAHIMI, Jamal Ja'afar Muhammad Ali; a.k.a. AL–IBRAHIMI, Jamal Ja'far; a.k.a. AL–MADAN, Abu Mahdi; a.k.a. AL–MOHANDAS, Abu-Mahdi; a.k.a. AL–MOHANDESS, Abu Mehdi; a.k.a. AL–MUHANDES, Abu Mahdi; a.k.a. AL–MUHANDIS, Abu Mahdi al-Basri; a.k.a. AL–MUHANDIS, Abu-Muhannad; a.k.a. BIHAJ, Jamal Ja'afar Ibrahim al-Mikna; a.k.a. EBRAHIMI, Jamal Jafaar Mohammed Ali; a.k.a. JAMAL, Ibrahimi; a.k.a. ''AL–IBRAHIMI, Jamal Fa'far 'Ali''; a.k.a. ''AL–TAMIMI, Jamal al-Madan''; a.k.a. ''JAAFAR, Jaafar Jamal''; a.k.a. ''MOHAMMED, Jamal Jaafar''), Mehran, Iran; Al Fardoussi Street, Tehran, Iran; Al Maaqal, Al Basrah, Iraq; Velayat Faqih Base, Kenesht Mountain Pass, Northwest of Kermanshah, Iran; DOB 1953; POB Ma'ghal, Basrah, Iraq; citizen Iran; alt. citizen Iraq; nationality Iraq (individual) [IRAQ3]

KATA'IB HIZBALLAH (a.k.a. HIZBALLAH BRIGADES; a.k.a. HIZBALLAH BRIGADES IN IRAQ; a.k.a. HIZBALLAH BRIGADES–IRAQ; a.k.a. KATA'IB HEZBOLLAH; a.k.a. KHATA'IB HEZBOLLAH; a.k.a. KHATA'IB HIZBALLAH; a.k.a. KHATTAB HEZBALLAH; a.k.a. ''HIZBALLAH BRIGADES–IRAQ OF THE ISLAMIC RESISTANCE IN IRAQ''; a.k.a. ''ISLAMIC RESISTANCE IN IRAQ''; a.k.a. ''KATA'IB HIZBALLAH FI AL–IRAQ''; a.k.a. ''KATIBAT ABU FATHEL AL A'ABAS''; a.k.a. ''KATIBAT ZAYD EBIN ALI''; a.k.a. ''KATIBUT KARBALAH''), Iraq; Najaf, Iraq [FTO] [SDGT] [IRAQ3]

Dated: July 2, 2009.

**Adam J. Szubin,**

*Director, Office of Foreign Assets Control.*

[FR Doc. E9–16877 Filed 7–15–09; 8:45 am]

**BILLING CODE 4811–45–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Paper Check Conversion Over the Counter

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Electronic fund transfers of one-time payments for written determinations.

**SUMMARY:** The Internal Revenue Service intends to begin electronically processing payments received by check for written determinations pursuant to Rev. Proc. 2009–01. When a requestor makes a payment by check for a written determination, the requestor authorizes the IRS to either use information from the check to make a one-time electronic fund transfer from the requestor's account or to process the payment as a check transaction. When the IRS uses information from the check to make an electronic fund transfer, funds may be withdrawn from the requestor's account as soon as the same day that the IRS receives the payment. Additionally, the requestor will not receive the check back from their financial institution. This change in procedure will be effective on and after August 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** For inquiries, please call Michael E. Parker, Director, Legal Processing Division, Office of Chief Counsel, Internal Revenue Service, at 202–622–4528, or through the Internet at *Michael.E.Parker @IRSCOUNSEL.TREAS.GOV.*

**Michael E. Parker,**

*Director, Legal Processing Division (Procedure and Administration).*

[FR Doc. E9–16903 Filed 7–15–09; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–New (10–0472)]**

### Proposed Information Collection (MOVE! Weight Management Program); Comment Request

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to evaluate patients experience with the MOVE! Weight Management Program.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 14, 2009.

**ADDRESSES:** Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov.* Please refer to ''OMB Control No. 2900–New (10–0472)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Mary Stout at (202) 461–5867 or FAX (202) 273–9381.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* MOVE! Weight Management Program for Veterans Survey of Patient Experiences, VA Form 10–0472.

*OMB Control Number:* 2900–New (10–0472).

*Type of Review:* New collection.

*Abstract:* The data collected on VA Form 10–0472 will be used to evaluate a patient's experience in VA's weight management treatment program. VA will use the data collected to understand the program effectiveness and to design future program enhancements.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 5,000.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* Annually.

*Estimated Number of Respondents:* 1,250.

Dated: July 13, 2009.

By direction of the Secretary.

**Denise McLamb,**

*Program Analyst. Enterprise Records Service.*

[FR Doc. E9–16892 Filed 7–15–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
July 16, 2009

# Part II

# Department of Commerce

## National Oceanic and Atmospheric Administration

## Availability of Grant Funds for Fiscal Year 2010; Notice

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 0907081109–91109–01]**

**RIN 0648–ZC10**

### Availability of Grant Funds for Fiscal Year 2010

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Oceanic and Atmospheric Administration publishes this notice to provide the general public with a consolidated source of program and application information related to its competitive grant and cooperative agreement (CA) award offerings for fiscal year (FY) 2010. This Omnibus notice is designed to replace the multiple **Federal Register** notices that traditionally advertised the availability of NOAA's discretionary funds for its various programs. It should be noted that additional program initiatives unanticipated at the time of the publication of this notice may be announced through subsequent **Federal Register** notices. All announcements will also be available through the Grants.gov Web site.

**DATES:** Proposals must be received by the date and time indicated under each program listing in the **SUPPLEMENTARY INFORMATION** section of this notice.

**ADDRESSES:** Proposals must be submitted to the addresses listed in the **SUPPLEMENTARY INFORMATION** section of this notice for each program. The **Federal Register** and Full Funding Opportunity (FFO) notices may be found on the Grants.gov Web site. The URL for Grants.gov is *http://www.grants.gov.*

**FOR FURTHER INFORMATION CONTACT:** Please contact the person listed within this notice as the information contact under each program.

**SUPPLEMENTARY INFORMATION:** Applicants must comply with all requirements contained in the Federal Funding Opportunity announcement for each of the programs listed in this omnibus notice. These Federal Funding Opportunities are available at *http://www.grants.gov.* The list of entries below describe the basic information and requirements for competitive grant/cooperative agreement programs offered by NOAA. These programs are open to any applicant who meets the eligibility criteria provided in each entry. To be considered for an award in a competitive grant/cooperative agreement program, an eligible applicant must submit a complete and responsive application to the appropriate program office. An award is made upon conclusion of the evaluation and selection process for the respective program.

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### I. Background

This notice provide the general public with a consolidated source of program and application information related to its competitive grant and cooperative agreement (CA) award offerings for fiscal year (FY) 2010. This notice provides information regarding the application submission process, and the evaluation criteria and selection procedures respectively for the grant opportunities. Each of the following grant opportunities provide: a description of the program, funding availability, statutory authority, catalog of federal domestic assistance (CFDA) number, application deadline, address for submitting proposals, information contacts, eligibility requirements, cost sharing requirements, and intergovernmental review under Executive Order 12372.

In addition, this notice announces information related to a non-competitive financial assistance project to be administered by NOAA. This project is titled ''NOAA Coral Reef Conservation Grant Program—Coral Reef Ecosystem Research Grants''. The NOAA Coral Reef Conservation Grant Program announces that it is providing funding to the NOAA Undersea Research Program (NURP) Centers for: the Southeastern U.S., Florida, and Gulf of Mexico Region, the Southeast U.S. and Gulf of Mexico Center; and the Hawaii and Western Pacific Region, the Hawaii Undersea Research Laboratory, to administer two external, competitive

coral reef ecosystem research grants programs. To receive an award for this project, an eligible applicant must submit a complete and responsive application to the appropriate program office. An award is made upon conclusion of the evaluation process for the prospective project.

**II. Electronic Access**

The full funding announcement for each program is available via the Grants.gov Web site at: *http://www.grants.gov.* Electronic applications for the NOAA Programs listed in this announcement may be accessed, downloaded, and submitted to that Web site.

The due dates and times for paper and electronic submissions are identical. NOAA strongly recommends that you do not wait until the application deadline to begin the application process through Grants.gov. Your application must be received and validated by Grants.gov no later than the due date and time. **Please Note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after your submission.

Please consider the Grants.gov validation/rejection process in developing your application submission time line.

*Grants.gov*

Getting started with Grants.gov is easy. Users should note that there are two key features on the Web site: Find Grant Opportunities and Apply for Grants. The site is designed to support these two features and your use of them.

While you can begin searching for NOAA grant opportunities immediately, it is recommended that you complete the steps to Get Started (below) ahead of time. This will help ensure you are ready to go when you find an opportunity for which you would like to apply.

*Applications From Individuals*

In order for you to apply as an individual the announcement must specify that the program is open to individuals and it must be published on the Grants.gov Web site. Individuals must register with the Credential Provider (*see* Step 3 below) and with Grants.gov (*see* Step 4 below). Individuals do not need a DUNS number to register and submit their applications. The system will generate a default value in that field.

*Grants.gov Application Submission and Receipt Procedures*

This section provides the application submission and receipt instructions for NOAA program applications. Please read the following instructions carefully and completely.

1. Electronic Delivery. NOAA is participating in the Grants.gov Initiative that provides the Grant Community a single site to find and apply for grant funding opportunities. NOAA encourages applicants to submit their applications electronically through: *http://www.grants.gov/applicants/apply_for_grants.jsp.*

2. The following describes what to expect when applying online using *Grants.gov/Apply:*

a. Instructions. On the site, you will find step-by-step instructions which enable you to apply for NOAA funds. The Grants.gov/Apply feature includes a simple, unified application process that makes it possible for applicants to apply for grants online. There are six ''Get Started'' steps to complete at Grants.gov. The information applicants need to understand and execute the steps can be found at: *http://www.grants.gov/applicants/get_registered.jsp.* Applicants should read the Get Started steps carefully. The site also contains registration checklists to help you walk through the process. NOAA recommends that you download the checklists and prepare the information requested before beginning the registration process. Reviewing and assembling required information before beginning the registration process will make the process fast and smooth and save time.

b. DUNS Requirement. All applicants, except those filing as individuals, who are applying for funding, including renewal funding, must have a Dun and Bradstreet Universal Data Numbering System (DUNS) number. The DUNS number must be included in the data entry field labeled ''Organizational Duns'' on the form SF–424. Instructions for obtaining a DUNS number can be found at the following Web site: *http://www.grants.gov/applicants/get_registered.jsp.*

c. Central Contractor Registry. In addition to having a DUNS number, all applicants applying electronically through Grants.gov must register with the Federal Central Contractor Registry and obtain a User Name and password. The Grants.gov Web site at *http://www.grants.gov/applicants/get_registered.jsp* provides step-by-step instructions for registering in the Central Contractor Registry. Failure to register with the Central Contractor Registry will result in your application being rejected by the Grants.gov portal.

The registration process is a separate process from submitting an application. Applicants are, therefore, encouraged to register early. The registration process can take approximately two weeks to be completed. Therefore, registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines. You will be able to submit your application online anytime after you receive your e-authentication credentials.

d. Electronic Signature. Applications submitted through Grants.gov constitute submission as electronically signed applications. The registration and e-authentication process establishes the Authorized Organization Representative (AOR). The AOR is an individual who is able to make legally binding commitments for the applicant organization. When you submit the application through Grants.gov, the name of your AOR on file will be inserted into the signature line of the application.

3. Instructions on how to submit an electronic application to NOAA via Grants.gov/Apply: Grants.gov has a full set of instructions on how to apply for funds on its Web site at *http://www.grants.gov/applicants/apply_for_grants.jsp.* The following provides simple guidance on what you will find on the Grants.gov/Apply site. Applicants are encouraged to read through the page entitled, ''Complete Application Package'' before getting started.

Grants.gov allows applicants to download the application package, instructions and forms that are incorporated in the instructions, and work off line. In addition to forms that are part of the application instructions, there will be a series of electronic forms that are provided utilizing an Adobe Reader.

**Note for the Adobe Reader:** Grants.gov is only compatible with versions 8.1.1 and above. Please do not use lower versions of the Adobe Reader.

*Mandatory Fields on Adobe Reader Forms*

In the Adobe forms you will note fields that appear with a yellow background and red outline color. These fields are mandatory and must be completed to successfully submit your application.

*Completion of SF–424 Fields*

NOAA strongly recommends that applicants first complete the SF–424

fields in Grants.gov. The Adobe forms are designed to automatically fill in common required fields such as the applicant name and address, DUNS number, etc., on all Adobe electronic forms. To trigger this feature, an applicant must complete the SF–424 information first. Once it is completed the information will transfer to the other forms.

*Customer Support*

The Grants.gov Web site provides customer support via (800) 518–4726 (this is a toll-free number) or through e-mail at *support@grants.gov*. The Contact Center is open from 7 a.m. to 9 p.m. Eastern time, Monday through Friday, except federal holidays, to address Grants.gov technology issues. For assistance with program related questions, contact the number listed in the Program Section of the program you are applying for.

4. Timely Receipt Requirements and Proof of Timely Submission.

a. Electronic Submission. All applications must be received by *http://www.grants.gov/applicants/apply_for_grants.jsp* by the Time on the due date established for each program. Proof of timely submission is automatically recorded by Grants.gov. An electronic time stamp is generated within the system when the application is successfully received by Grants.gov. The applicant will receive an acknowledgment of receipt and a tracking number from Grants.gov with the successful transmission of their application. Applicants should print this receipt and save it, along with facsimile receipts for information provided by facsimile, as proof of timely submission. When NOAA successfully retrieves the application from Grants.gov, Grants.gov will provide an electronic acknowledgment of receipt to the e-mail address of the AOR. Proof of timely submission shall be the date and time that Grants.gov receives your application. Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding by NOAA. **Please Note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after your submission. Please consider the Grants.gov validation/rejection process in developing your application submission time line.

NOAA suggests that applicants submit their applications during the operating hours of the Grants.gov, so that if there are questions concerning transmission, operators will be available to walk you through the process. Submitting your application during the Contact Center hours will also ensure that you have sufficient time for the application to complete its transmission prior to the application deadline. Applicants using dial-up connections should be aware that transmission of applications will take a longer time than when using high speed broadband before Grants.gov receives it. Grants.gov will provide either an error or a successfully received transmission message. Grants.gov reports that some applicants abort the transmission because they think that nothing is occurring during the transmission process. Please be patient and give the system time to process the application. Uploading and transmitting many files, particularly electronic forms with associated XML schemas, will require more time to be processed. Important: All applicants, both electronic and paper, should be aware that adequate time must be factored into applicant schedules for delivery of the application. Electronic applicants are advised that volume on Grants.gov is currently extremely heavy, and if Grants.gov is unable to accept applications electronically in a timely fashion, applicants are encouraged to exercise their option to submit applications in paper format. Paper applicants should allow adequate time to ensure a paper application will be received on time, taking into account that guaranteed overnight carriers are not always able to fulfill their guarantees.

## III. Evaluation Criteria and Selection Procedures

NOAA has standardized the evaluation and selection process for its competitive assistance programs. There are two separate sets of evaluation criteria and selection procedures (*see* below), one for project proposals, and the other for fellowship, scholarship, and internship programs.

*Project Proposals Review and Selection Process*

Some project proposals may include a pre-application process that provides for feedback to applicants that responded to a call for letters of intent or pre-proposals; however, not all programs will include this pre-application. If a program has a pre-application process, it will be described in the Summary Description section of the announcement and the deadline will be specified in the Application Deadline section.

Upon receipt of a full application by NOAA, an initial administrative review will be conducted to determine compliance with requirements and completeness of the application. A merit review will also be conducted to produce a rank order of the proposals. The NOAA Program Officer may review the ranking of the proposals and make recommendations to the Selecting Official based on the administrative and/or merit review(s) and selection factors listed below. The Selecting Official selects proposals after considering the administrative and/or merit review(s) and recommendations of the Program Officer. In making the final selections, the Selecting Official will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below. The Program Officer and/or Selecting Official may negotiate the funding level of the proposal. The Selecting Official makes final award recommendations to the Grants Officer authorized to obligate the funds.

*Evaluation Criteria*

Each reviewer (one mail and at least three peer review panel reviewers) will individually evaluate and rank proposals using the following evaluation criteria:

1. Importance and/or relevance and applicability of a proposed project to the program goals: This ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal (other than NOAA), regional, state, or local activities.

2. Technical/scientific merit: This assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives.

3. Overall qualifications of applicants: This ascertains whether the applicant possesses the necessary education, experience, training, facilities, and administrative resources to accomplish the project.

4. Project costs: The project's budget is evaluated to determine if it is realistic and commensurate with the project needs and timeframe.

5. Outreach and education: NOAA assesses whether this project provides a focused and effective education and outreach strategy regarding its mission to protect the Nation's natural resources.

*Selection Factors*

The merit review ratings will be used to provide a rank order to the Selecting Official for final funding recommendations. A Program Officer may first make recommendations to the Selecting Official applying the selection factors listed below. The Selecting Official shall award in the rank order

unless the proposal is justified to be selected out of rank order based upon one or more of the following factors:

1. Availability of funding.
2. Balance/distribution of funds:
a. Geographically,
b. By type of institutions,
c. By type of partners,
d. By research areas, and
e. By project types.
3. Whether the project duplicates other projects funded or considered for funding by NOAA or other federal agencies.
4. Program priorities and policy factors.
5. Applicant's prior award performance.
6. Partnerships and/or participation of targeted groups.
7. Adequacy of information necessary for NOAA to make a National Environmental Policy Act determination and draft necessary documentation before funding recommendations are made to the Grants Officer.

*Fellowship, Scholarship and Internship Programs Review and Selection Process*

Some fellowship, scholarship and internship programs may include a pre-application process that provides for feedback to the applicants that have responded to a call for letters of intent or pre-proposals; however, not all programs will include this pre-application. If a program has a pre-application process, the process will be described in the Summary Description section of the announcement and the deadline will be specified in the Application Deadline section.

Upon receipt of a full application by NOAA, an initial administrative review will be conducted to determine compliance with requirements and completeness of the application.

A merit review will also be conducted to produce a rank order of the proposals. The NOAA Program Officer may review the ranking of the proposals and make recommendations to the Selecting Official based on the administrative and/or merit review(s) and selection factors listed below. The Selecting Official selects proposals after considering the administrative and/or merit review(s) and recommendations of the Program Officer. In making the final selections, the Selecting Official will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below. The Program Officer and/or Selecting Official may negotiate the funding level of the proposal. The Selecting Official makes final award recommendations to the Grants Officer authorized to obligate the funds.

*Evaluation Criteria*

Each reviewer (one mail and at least three peer review panel reviewers) will individually evaluate and rank proposals using the following evaluation criteria.

1. Academic record and statement of career goals and objectives of the student.
2. Quality of project and applicability to program priorities.
3. Recommendations and/or endorsements of the student.
4. Additional relevant experience related to diversity of education; extra-curricular activities; honors and awards; and interpersonal, written, and oral communications skills.
5. Financial need of the student.

*Selection Factors*

The merit review ratings will be used to provide a rank order by the Selecting Official for final funding recommendations. A Program Officer may first make recommendations to the Selecting Official by applying the selection factors listed below. The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order based upon one or more of the following factors:

1. Availability of funds.
2. Balance/distribution of funds:
a. Across academic disciplines,
b. By types of institutions, and
c. Geographically.
3. Program-specific objectives.
4. Degree in scientific area and type of degree sought.

## IV. NOAA Project Competitions Listed by NOAA Mission Goals

1. *Understand Climate Variability and Change To Enhance Society's Ability To Plan and Respond*

Summary Description: Climate shapes the environment, natural resources, economies, and social systems that people depend upon worldwide. While humanity has learned to contend with some aspects of climate's natural variability, major climatic events, combined with the stresses of population growth, economic growth, public health concerns, and land-use practices, can impose serious consequences on society. The 1997–98 El Nino, for example, had a $25 billion impact on the U.S. economy-property losses were $2.6 billion and crop losses approached $2 billion. Long-term drought leads to increased and competing demands for fresh water with related effects on terrestrial and marine ecosystems, agricultural productivity, and even the spread of infectious diseases. Decisions about mitigating climate change also can alter economic and social structures on a global scale. We can deliver reliable climate information in useful ways to help minimize risks and maximize opportunities for decisions in agriculture, public policy, natural resources, water and energy use, and public health. We continue to move toward developing a seamless suite of weather and climate products. The Goal addresses predictions on time scales of up to decades or longer.

Funded proposals should help achieve the following outcomes:

1. A predictive understanding of the global climate system on time scales of weeks to decades with quantified uncertainties sufficient for making informed and reasoned decisions
2. Climate-sensitive sectors and the climate-literate public effectively incorporating NOAA's climate products into their plans and decisions

Program Names:

1. Collaborative Science, Technology, and Applied Research (CSTAR) Program
2. Climate Program Office for FY 2010
3. FY 2010 Bay Watershed Education and Training (B–WET) Hawaii Program
4. 2011 National Sea Grant College Program Dean John A. Knauss Marine Policy Fellowship
5. Research in Satellite Data Assimilation for Numerical Weather, Climate and Environmental Forecast Systems
6. 2010 Sea Grant/Regional Team Climate Engagement
7. 2010 Integrated Ocean Observing System Implementation

2. *Serve Society's Needs for Weather and Water Information*

Summary Description: Floods, droughts, hurricanes, tornadoes, tsunamis, wildfires, and other severe weather events cause $11 billion in damages each year in the United States. Weather is directly linked to public health and safety, and nearly one-third of the U.S. economy (about $3 trillion) is sensitive to weather and climate. With so much at stake, NOAA's role in understanding, observing, forecasting, and warning of environmental events is expanding. With our partners, we seek to provide decision makers with key observations, analyses, predictions, and warnings for a range of weather and water conditions, including those related to water supply, air quality, space weather, and wildfires. Businesses, governments, and nongovernmental organizations are getting more sophisticated about how to use this weather and water information to improve operational efficiencies, to manage environmental resources, and to

create a better quality of life. On average, hurricanes, tornadoes, tsunamis, and other severe weather events cause $11 billion in damages per year. Weather, including space weather, is directly linked to public safety and about one-third of the U.S. economy (about $3 trillion) is weather sensitive. With so much at stake, NOAA's role in observing, forecasting, and warning of environmental events is expanding, while economic sectors and its public are becoming increasingly sophisticated at using NOAA's weather, air quality, and water information to improve their operational efficiencies and their management of environmental resources, and quality of life.

Funded proposals should help achieve the following outcomes:

1. Reduced loss of life, injury, and damage to the economy
2. Better, quicker, and more valuable weather and water information to support improved decisions
3. Increased customer satisfaction with weather and water information and services

Program Names:

1. Collaborative Science, Technology, and Applied Research (CSTAR) Program
2. 2011 National Sea Grant College Program Dean John A. Knauss Marine Policy Fellowship
3. Research in Satellite Data Assimilation for Numerical Weather, Climate and Environmental Forecast Systems
4. 2010 Sea Grant/Regional Team Climate Engagement
5. Remote Community Alert Systems Program 2010
6. 2010 Integrated Ocean Observing System Implementation

3. *Support the Nation's Commerce With Information for Safe, Efficient, and Environmentally Sound Transportation*

Summary Description: Safe and efficient transportation systems are crucial to the U.S. economy. The U.S. marine transportation system ships over 95 percent of the tonnage and more than 20 percent by value of foreign trade through U.S. ports, including 48 percent of the oil needed to meet America's energy demands. At least $4 billion is lost annually due to economic inefficiencies resulting from weather related air-traffic delays. Improved surface weather forecasts and specific user warnings would reduce the 7,000 weather related fatalities and 800,000 injuries that occur annually from crashes on roads and highways. The injuries, loss of life, and property damage from weather-related crashes cost an average of $42 billion annually. We provide information, services, and products for transportation safety and for increased commerce on roads, rails, and waterways. We will improve the accuracy of our information for marine, aviation, and surface weather forecasts, the availability of accurate and advanced electronic navigational charts, and the delivery of real-time oceanographic information. We seek to provide consistent, accurate, and timely positioning information that is critical for air, sea, and surface transportation. We will respond to hazardous material spills and provide search and rescue routinely to save lives and money and to protect the coastal environment. We will work with port and coastal communities and with Federal and state partners to ensure that port operations and development proceed efficiently and in an environmentally sound manner. We will work with the Federal Aviation Administration and the private sector to reduce the negative impacts of weather on aviation without compromising safety. Because of increased interest by the public and private sectors, we also will expand weather information for marine and surface transportation to enhance safety and efficiency.

Funded proposals should help achieve the following outcomes:

1. Safe, secure, efficient, and seamless movement of goods and people in the U.S. transportation system
2. Environmentally sound development and use of the U.S. transportation system.

Program Names:

1. Collaborative Science, Technology, and Applied Research (CSTAR) Program
2. 2011 National Sea Grant College Program Dean John A. Knauss Marine Policy Fellowship
3. 2010 Sea Grant/Regional Team Climate Engagement
4. 2010 Integrated Ocean Observing System Implementation

4. *Protect, Restore and Manage the Use of Coastal and Ocean Resources through Ecosystem-Based Management*

Summary Description: Coastal areas are among the most developed in the Nation. More than half the population lives on less than one-fifth of the land in the contiguous United States. Furthermore, employment in near shore areas is growing three times faster than population. Coastal and marine waters support over 28 million jobs and provide a tourism destination for nearly 90 million Americans a year. The value of the ocean economy to the United States is over $115 billion. The value added annually to the national economy by the commercial and recreational fishing industry alone is over $48 billion. U.S. aquaculture sales total almost $1 billion annually. With its Exclusive Economic Zone of 3.4 million square miles, the United States manages the largest marine territory of any nation in the world.

Funded proposals should help achieve the following outcomes:

1. Healthy and productive coastal and marine ecosystems that benefit society
2. A well-informed public that acts as a steward of coastal and marine ecosystems

Program Names:

1. Cooperative Research Program
2. FY 2010 Chesapeake Bay Watershed Education and Training (B–WET) Program
3. John H. Prescott Marine Mammal Rescue Assistance Grant Program 2010
4. Marine Fisheries Initiative (MARFIN)
5. FY 2010 Hawaii Bay Watershed Education and Training (B–WET) Program
6. Coastal Hypoxia Research Program (CHRP)
7. Sea Level Rise—(SLR)
8. 2011 National Sea Grant College Program Dean John A. Knauss Marine Policy Fellowship
9. NOAA International Coral Reef Grant Program
10. NOAA Gulf of Mexico Bay Watershed Education and Training (B–WET) Program
11. NOAA Pacific Northwest Bay Watershed Education and Training (B–WET) Program
12. 2010 NMFS—Sea Grant Fellowships in Population Dynamics
13. 2010 NMFS—Sea Grant Fellowships in Marine Resource Economics
14. NOAA New England Bay Watershed Education and Training (B–WET) Program
15. FY 2010 California Bay Watershed Education and Training Program
16. Research in Satellite Data Assimilation for Numerical Weather, Climate and Environmental Forecast Systems
17. 2010 NOAA Coral Reef Ecosystem Monitoring Grant Program
18. 2010 NOAA Coral Reef Management Grant Program
19. Protected Species Cooperative Conservation
20. NOAA Coral Reef Conservation Grant Program/General Coral Reef Conservation Grants
21. NOAA Coral Reef Conservation Grant Program/Projects to Improve or Amend Coral Reef Fishery Management Plans
22. 2010 Atlantic Scallop Research Set-Aside Program
23. 2010 Monkfish Research Set-Aside Program
24. 2010 Sea Grant/Regional Team Climate Engagement

25. 2010 Saltonstall-Kennedy Grant Program
26. Harmful Algal Blooms Program
27. FY 2010 Community-based Marine Debris Removal Project Grants
29. FY 2010 Ocean Exploration and Research Appropriation—Marine Archaeology
30. 2010 Open Rivers Initiative
31. NOAA Coastal and Marine Habitat Restoration National and Regional Partnership Grants
32. 2010 Integrated Ocean Observing System Implementation

5. *Provide Critical Support for NOAA's Mission*

Summary Description: Strong, effective, and efficient support activities are necessary for us to achieve our Mission Goals. Our facilities, ships, aircraft, environmental satellites, data processing systems, computing and communication systems, and our approach to management provide the foundation of support for all of our programs. This critical foundation must adapt to evolving mission needs and, therefore, is an integral part of our strategic planning. It also must support U.S. homeland security by maintaining continuity of operations and by providing NOAA services, such as civil alert relays through NOAA Weather Radio and air dispersion forecasts, in response to National emergencies. NOAA ships, aircraft, and environmental satellites are the backbone of the global Earth observing system and provide many critical mission support services. To keep this capability strong and current with our Mission Goals, we will ensure that NOAA has adequate access to safe and efficient ships and aircraft through the use of both NOAA platforms and those of other agency, academic, and commercial partners. We will work with academia and partners in the public and private sectors to ensure that future satellite systems are designed, developed, and operated with the latest technology. Leadership development and program support are essential for achieving our Mission Goals. We must also commit to organizational excellence through management and leadership across a ''corporate'' NOAA. We must continue our Commitment to valuing NOAA's diverse workforce, including effective workforce planning strategies designed to attract, retain and develop competencies at all levels of our workforce. Through the use of business process re-engineering, we will strive for state-of-the-art, value-added financial and administrative processes. NOAA will ensure state-of-the-art and secure information technology and systems. By developing long-range, comprehensive facility planning processes, NOAA will be able to ensure right-sized, most-effective, and safe facilities.

Funded proposals should help achieve the following outcomes:

1. A dynamic workforce with competencies that support NOAA's mission today and in the future.

Program Names:

1. National Estuarine Research Reserve Graduate Research Fellowship Program FY 2010
2. 2011 National Sea Grant College Program Dean John A. Knauss Marine Policy Fellowship
3. National Estuarine Research Reserve System (NERRS) Land Acquisition and Construction Program FY 2010
4. Student Opportunity for Learning

## V. NOAA Project Competitions

*National Marine Fisheries Service (NMFS)*

1. 2010 Monkfish Research Set-Aside Program

*Summary Description:* NOAA's National Marine Fisheries Service (NMFS) is soliciting monkfish research proposals to utilize 500 Monkfish Days-at-Sea (DAS) that have been set-aside by the New England Fishery Management and Mid-Atlantic Fishery Management Councils (Councils) to fund monkfish research endeavors through the 2010 Monkfish Research Set-Aside (RSA) Program (May 1, 2010–April 30, 2011). No Federal funds are provided for research under this notification. Rather, proceeds generated from the sale of monkfish harvested during a set-aside DAS is used to fund research activities and compensate vessels that participate in research activities and/or harvest set-aside quota.

Projects funded under the Monkfish RSA Program must enhance the knowledge of the monkfish fishery resource or contribute to the body of information on which monkfish management decisions are made. Priority will be given to monkfish research proposals that investigate research priorities identified by the Councils and which are detailed under the Program Priorities section of this announcement.

*Funding Availability:* DAS will be awarded to successful applicants. No Federal funds are provided for research under this notification. Funds generated from landings harvested and sold under the Monkfish RSA Program shall be used to cover the cost of research activities, including vessel costs. For example, the funds may be used to pay for gear modifications, monitoring equipment, the salaries of research personnel, or vessel operation costs. The Federal Government is not liable for any costs incurred by the researcher or vessel owner should the sale of catch not fully reimburse the researcher or vessel owner for their expenses. Any additional funds generated through the sale of set-aside landings, above the cost of the research activities, shall be retained by the vessel owner as compensation for the use of his/her vessel. The Federal Government (i.e., NMFS) may issue an Exempted Fishing Permit (EFP), if needed, that may provide special fishing privileges in response to research proposals selected under this program. For example, in previous years, some successful applicants have requested, and were granted, exemption from monkfish DAS possession limits to make compensation fishing more efficient and cost effective. In such cases, applicants were authorized to harvest a maximum amount of monkfish by weight, or fish up to the number of awarded monkfish DAS, whichever came first. To obtain such an exemption, an EFP application must be submitted to the Northeast Regional Office, NMFS. Please be aware that EFP applications are reviewed on a case by case basis, and may be disapproved. For additional information, contact Ryan Silva, Cooperative Research Liaison, at 978–281–9326, or *ryan.silva@noaa.gov*.

*Statutory Authority:* Statutory authority for this program is found under sections 303(b)(11), 402(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881(c), respectively. The ability to set aside monkfish DAS for research purposes was established in the final rule implementing Amendment 2 to the Monkfish Fishery Management Plan (70 FR 21927, April 28, 2005), codified at 50 CFR 648.92(c).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.454, Unallied Management Projects

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EDT, August 31, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No

facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* To apply for this NOAA Federal funding opportunity, please go to *http://www.grants.gov*, and use the following funding opportunity #NMFS–NEFSC–2010–2001980. Applicants without Internet access may contact Cheryl Corbett, NMFS, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543, by phone 508–495–2070, fax 508–495–2004, or e-mail *cheryl.corbett@noaa.gov*.

*Information Contacts:* Information may be obtained from Paul Howard, Executive Director, New England Fishery Management Council (NEFMC), by phone 978–465–0492, or by fax 978–465–3116; Philip Haring, Senior Fishery Analyst, NEFMC, by phone 978–465–0492, or by e-mail at *pharing@nefmc.org*; or Cheryl Corbett, NMFS, Northeast Fisheries Science Center, phone 508–495–2070, fax 508–495–2004, or e-mail *cheryl.corbett@noaa.gov*, or from Ryan Silva, NMFS, Northeast Regional Office, Cooperative Research Liaison, phone (978) 281–9326, fax (978) 281–9326, e-mail *ryan.silva@noaa.gov*.

*Eligibility:* 1. Eligible applicants are institutions of higher education, hospitals, other nonprofits, commercial organizations, individuals, state, local, and Native American tribal governments. Federal agencies and institutions are not eligible to receive Federal assistance under this notice. Additionally, employees of any Federal agency or Regional Fishery Management Council (Council) are ineligible to submit an application under this program. However, Council members who are not Federal employees may submit an application.

2. DOC/NOAA supports cultural and gender diversity and encourages women and minority individuals and groups to submit applications to the RSA program. In addition, DOC/NOAA is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in underserved areas. DOC/NOAA encourages proposals involving any of the above institutions.

3. DOC/NOAA encourages applications from members of the fishing community and applications that involve fishing community cooperation and participation.

*Cost Sharing Requirements:* None required.

*Intergovernmental Review:* Applicants will need to determine if their State participates in the intergovernmental review process. This information can be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*. This information will assist applicants in providing either a Yes or No response to Item 16 of the Application Form, SF–424, entitled ''Application for Federal Assistance.''

2. 2010 Open Rivers Initiative

*Summary Description:* The NOAA Open Rivers Initiative (ORI) provides funding and technical assistance to catalyze the implementation of locally-driven projects to remove dams and other river barriers, in order to benefit living marine and coastal resources, particularly diadromous fish. Projects funded through the Open Rivers Initiative must feature strong on-the-ground habitat restoration components that foster economic, educational, and social benefits for citizens and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement. Funding of up to $6,000,000 is expected to be available for ORI Project Grants in FY 2010. The NOAA Restoration Center within the Office of Habitat Conservation will administer this grant initiative, and anticipates that typical awards will range from $200,000 to $750,000. Although a select few may fall outside of this range, project proposals requesting less than $100,000 or greater than $3,000,000 will not be accepted or reviewed.

*Funding Availability:* This solicitation announces that funding of up to $6,000,000 is expected to be available for Open Rivers Initiative Project Grants in FY 2010. Actual funding availability for this program is contingent upon Fiscal Year 2010 Congressional appropriations. NOAA anticipates that typical project awards will range from $200,000 to $750,000; proposals requesting less than $100,000 or more than $3,000,000 will not be accepted under this solicitation. NOAA does not guarantee that sufficient funds will be available to make awards for all proposals. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested by the applicants, the merit and ranking of the proposals, and the amount of funds made available to the ORI by Congress.

NOAA anticipates that between 10 and 15 awards will be made as a result of this solicitation. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this document does not obligate NOAA to award any specific project or obligate all or any parts of any available funds.

*Statutory Authority:* The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration. The Secretary of Commerce is also authorized under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (H.R. 5946) to provide funding and technical expertise for fisheries and coastal habitat restoration and to promote significant community support and volunteer participation in such activities.

*Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.*

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service by 11:59 EST on November 16, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applicants may submit their applications through Grants.gov. If Grants.gov cannot reasonably be used, a hard copy application with the SF424 signed in ink (blue ink is preferred) must be postmarked or provided to a delivery service and documented with a receipt by November 16, 2009 and sent to: NOAA Restoration Center (F/HC3) Office of Habitat Conservation, NOAA Fisheries, 1315 East West Highway, Rm. 15749, Silver Spring, MD 20910 *Attn:* Open Rivers Initiative Project Applications.

Applications postmarked or provided to a delivery service after November 16, 2009 will not be considered for funding. Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 15 business days following the postmark closing date will not be accepted. No facsimile or electronic mail applications will be accepted. Paper applications should be printed on one side only, on

8.5″ x 11″ paper, and should not be bound in any manner.

*Information Contacts:* For further information contact Tisa Shostik (*Tisa.Shostik@noaa.gov*) at (301) 713–0174 x184 or Cathy Bozek (*Cathy.Bozek@noaa.gov*) at (301) 713–0174 x150. Potential applicants are invited to contact NOAA Restoration Center staff before submitting an application to discuss the applicability of project ideas to the goals and objectives of ORI. Additional information on the ORI can be found on *http://www.nmfs.noaa.gov/habitat/restoration*.

*Eligibility:* Eligible applicants are institutions of higher education, non-profits, industry and commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources.

Applications from federal agencies or employees of federal agencies will not be considered. Federal agencies are strongly encouraged to work with states, non-governmental organizations, national service clubs or youth corps organizations and others that are eligible to apply.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic-serving institutions, tribal colleges and universities, and institutions that work in under-served areas. The ORI encourages proposals from or involving any of the above institutions.

*Cost Sharing Requirements:* A major goal of the ORI is to provide seed money for projects that leverage funds and other contributions from a broad public and private sector to implement locally important barrier removals to benefit living marine and coastal resources. To this end, applicants are encouraged to demonstrate a 1:1 non-federal match for ORI funds requested to conduct the proposed project. Applicants with less than 1:1 match will not be disqualified, however, applicants should note that cost sharing is an element considered in Evaluation Criterion #4 ''Project Costs'' (Section V.A.4. of the Full Funding Opportunity). Match to NOAA funds can come from a variety of public and private sources and can include in-kind goods and services and volunteer labor. Applicants are permitted to combine contributions from non-federal partners, as long as such contributions are not being used to match any other federal funds and are available within the project period stated in the application. Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are also permitted to apply federally negotiated indirect costs in excess of federal share limits as described in Section IV.E.2 of the Full Funding Opportunity, ''Indirect Costs.''

Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Successful applicants should be prepared to carefully document matching contributions, including the overall number of volunteers and in-kind participation hours devoted to individual barrier removal projects. Letters of commitment for any secured resources that will be used as match for an award under this solicitation should be submitted as an attachment to the application, see Section IV.B of the Full Funding Opportunity.

*Intergovernmental Review:* Applications under this initiative are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed on the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

3. 2010 Saltonstall-Kennedy Grant Program

*Summary Description:* The Saltonstall-Kennedy Act established a fund (known as the S–K fund) that the Secretary of Commerce uses to provide grants or cooperative agreements for fisheries research and development projects addressed to any aspect of U.S. fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures. U.S. fisheries include any fishery, commercial or recreational, that is, or may be, engaged in by citizens or nationals of the United States, or citizens of the Northern Mariana Islands (NMI), the Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia.

*Funding Availability:* Funding is contingent upon availability of Federal appropriations. The S–K program has sought funding for $5 million in grant awards. We anticipate awarding 20–25 grants of approximately $100,000 to $250,000 each. Applicants are hereby given notice that funds have not yet been allocated for this program. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. Publication of this notice does not obligate NOAA to award any specific project or to obligate any available funds. You should not initiate your project in expectation of Federal funding until you receive a grant award document signed by an authorized NOAA official. If one incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at one's own risk of these costs not being included under the award.

Recipients and subrecipients are subject to all Federal laws and agency policies, regulations and procedures applicable to Federal financial assistance awards.

*Statutory Authority:* Authority for the Saltonstall-Kennedy Grant Program is provided under the Saltonstall-Kennedy Act (S–K Act), as amended (15 U.S.C. 713c–3).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.427, Fisheries Dev and Utilization Research and Dev Grants and Coop Agreements Program.

*Application Deadline:* Applications must be received and validated by Grants.gov on or before 5 p.m. EDT on September 1, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. No facsimile or electronic mail applications will be accepted. If an applicant does not have Internet access, hard copy proposals will be accepted and the date recorded when they are received in the program office. Hard copy applications must be received by the Saltonstall-Kennedy Grant Program Office by 5 p.m. EDT on September 1, 2009.

*Address for Submitting Proposals:* Applications submitted in response to this announcement must be submitted electronically through the Federal grants portal—*http://www.grants.gov*. Electronic access to the full funding announcement for this program is also available through this Web site. If an applicant does not have Internet access, hard copy proposals (with original

signatures) will be accepted and should be sent to the attention of: Mr. Daniel A. Namur, S–K Program Manager, NOAA/NMFS (F/MB); 1315 East-West Highway, Room 13358; Silver Spring, MD 20910–3282.

*Information Contacts:* The point of contact is: Daniel A. Namur, S–K Program Manager, NOAA/NMFS (F/MB); 1315 East-West Highway, Room 13358; Silver Spring, MD 20910–3282; or by Phone at (301) 713–1365 ext. 118, or fax at (301) 713–1464, or via e-mail at *Dan.Namur@noaa.gov*.

*Eligibility:* You are eligible to apply for a grant or a cooperative agreement under the Saltonstall-Kennedy Grant Program if:

1. You are a citizen or national of the United States;

2. You are a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the constitution of the NMI;

3. You are a citizen of the Republic of the Marshall Islands, Republic of Palau, or the Federated States of Micronesia; or

4. You represent an entity that is a corporation, partnership, association, or other non-Federal entity, non-profit or otherwise (including Indian tribes), if such entity is a citizen of the United States or NMI, within the meaning of section 2 of the Shipping Act, 1916, as amended (46 U.S.C. app. 802).

We support cultural and gender diversity in our programs and encourage women and minority individuals and groups to submit applications. Furthermore, we recognize the interest of the Secretaries of Commerce and Interior in defining appropriate fisheries policies and programs that meet the needs of the U.S. insular areas, so we also encourage applications from individuals, government entities, and businesses in U.S. insular areas. We are strongly committed to broadening the participation of Minority Serving Institutions (MSIs), which include Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities, in our programs, including S–K. Therefore, we encourage all applicants to include meaningful participation of MSIs. We encourage applications from members of the fishing community, and applications that involve fishing community cooperation and participation. We will consider the extent of fishing community involvement when evaluating the potential benefit of funding a proposal. You are not eligible to submit an application under this program if you are an employee of any Federal agency; a Council; or an employee of a Council. However, Council members who are not Federal employees can submit an application to the S–K Program.

*Cost Sharing Requirements:* We are requiring cost sharing in order to leverage the limited funds available for this program and to encourage partnerships among government, industry, and academia to address the needs of fishing communities. You must provide a minimum cost share of 10 percent of total project costs, but your cost share must not exceed 50 percent of total costs. You may find this formula useful:

1. Total Project Cost (Federal and non-Federal cost share combined) × .9 = Maximum Federal Share.

2. Total Cost − Federal share = Applicant Share. For example, if the proposed total budget for your project is $100,000, the maximum Federal funding you can apply for is $90,000 ($100,000 × .9).

Your cost share in this case would be $10,000 ($100,000 − $90,000). For a total project cost of $100,000, you must contribute at least $10,000, but no more than $50,000 (10–50 percent of total project cost). Accordingly, the Federal share you apply for would range from $50,000 to $90,000.

If your application does not comply with these cost share requirements, we will return it to you and will not consider it for funding. The funds you provide as cost sharing may include funds from private sources or from state or local governments, or the value of in-kind contributions. You may not use Federal funds to meet the cost sharing requirement except as provided by Federal statute. In-kind contributions are non-cash contributions provided to you by non-Federal third parties. In-kind contributions may include, but are not limited to, personal services volunteered to perform tasks in the project, and permission to use, at no cost, real or personal property owned by others. We will determine the appropriateness of all cost sharing proposals, including the valuation of in-kind contributions, on the basis of guidance provided in 15 CFR parts 14 and 24. In general, the value of in-kind services or property you use to fulfill your cost share will be the fair market value of the services or property. Thus, the value is equivalent to the cost for you to obtain such services or property if they had not been donated. You must document the in-kind services or property you will use to fulfill your cost share. If we decide to fund your application, we will require you to account for the total amount of cost share included in the award document.

*Intergovernmental Review:* Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

4. 2010 Atlantic Scallop Research Set-Aside Program

*Summary Description:* NOAA's National Marine Fisheries Service (NMFS) is soliciting Atlantic Sea Scallop (scallop) research proposals to utilize scallop Total Allowable Catch (TAC) and Days-at-Sea (DAS) that have been set-aside by the New England Fishery Management Council (Council) to fund scallop research endeavors through the 2010 Atlantic Sea Scallop Research Set-Aside (RSA) Program (March 1, 2010–February 28, 2011).

No Federal funds are provided for research under this notification. Rather, proceeds generated from the sale of scallops harvested under a set-aside quota are used to fund research activities and compensate vessels that participate in research activities and/or harvest set-aside quota. Projects funded under the Scallop RSA Program must enhance the knowledge of the scallop fishery resource or contribute to the body of information on which scallop management decisions are made. Priority will be given to scallop research proposals that investigate research priorities identified by the Council, which are detailed under the Program Priorities section of this announcement.

*Funding Availability:* Previous Scallop RSA Program announcements required applicants to specify which TAC and/or DAS set-aside they were requesting. In addition, applicants were required to use scallop price and catch rate estimates provided by NMFS when developing their budget. Several issues resulted from this process, including persistent grant delays, and dated price and catch rate estimates that were published in the FFO.

These issues resulted primarily from a disconnect between the timelines for Scallop FMP frameworks, which establish set aside quotas and price and catch rate estimates (among other

things), and the Scallop RSA annual solicitation. Therefore, application requirements are being adjusted for the 2010 Scallop RSA Program in an attempt to rectify these issues.

TAC and DAS set-asides and scallop price and catch rate estimates will no longer be published in the FFO. Accordingly, applicants will no longer base their budget on available RSA quota or price and catch rate estimates published in the FFO. Instead, applicants must submit a budget that is based solely on monetary needs, which includes funds necessary to execute the research plan and funds necessary to compensate vessel owners harvesting set-aside quota. To facilitate the submission of relevant and timely access area research proposals, it is anticipated that the Elephant Trunk and Delmarva Access Areas will be open in the Mid-Atlantic, and the Nantucket Lightship and/or Closed Area I Access Areas will be open on Georges Bank for the 2010 scallop fishing year. This access area schedule is preliminary and subject to change. The final schedule will be established by Framework 21 to the Scallop FMP, which is currently under development. Upon project selection, NMFS will negotiate with successful applicants on the specific TAC and/or DAS award. Priority will be given primarily to the higher technically ranked proposal, although additional factors such as individual project needs and cost effectiveness may be considered during negotiations. NMFS will establish a common DAS catch rate and scallop price estimate, based on the best and most recent data available, to determine the amount of set-aside necessary to cover research and compensation fishing expenses. If a desired set-aside quota has been fully utilized by another applicant, TAC and/or DAS will be awarded from a different set-aside quota. Once all the TAC and/or DAS set-aside quotas have been awarded, or all qualified proposals have been funded, whichever comes first, the selection process will end. It is anticipated that these changes will facilitate timely grant awards and improve scallop price and catch rate estimates used to establish TAC and DAS set-aside values. No Federal funds are provided for research under this notification. Funds generated from landings harvested and sold under the Scallop RSA Program shall be used to cover the cost of research activities, including vessel costs. For example, the funds may be used to pay for gear modifications, monitoring equipment, the salaries of research personnel, or vessel operation costs. The Federal Government is not liable for any costs incurred by the researcher or vessel owner should the sale of catch not fully reimburse the researcher or vessel owner for their expenses. Any additional funds generated through the sale of set-aside landings, above the cost of the research activities, shall be retained by the vessel owner as compensation for the use of his/her vessel. The Federal government (i.e., NMFS) will issue Letters of Authorization (LOAs) to eligible vessels identified by the Project Coordinator, which authorize such vessels to take access area and DAS compensation fishing trips, and exceed the vessel's normal scallop possession limit.

*Statutory Authority:* Statutory authority for this program is provided under sections 303(b)(11), 402(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881(c), respectively. The ability to set aside scallop TAC and DAS is authorized through the scallop FMP published in the **Federal Register** on June 23, 2004 (69 FR 35193).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.454, Unallied Management Projects.

*Application Deadline:* Applications must be received and validated by Grants.gov on or before 5 p.m. EST on August 31, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. If an applicant does not have Internet access, hard copy proposals will be accepted, and date recorded when they are received in the program office. Electronic or hard copies received after the deadline will not be considered, and hard copy applications will be returned to the sender. Mark hard copy proposals ''Attention—2010 Atlantic Scallop Research Set Aside Program.''

*Address for Submitting Proposals:* To apply for this NOAA Federal funding opportunity, please go to *http://www.grants.gov*, and use the following funding opportunity #NMFS–NEFSC–2010–2001979. Applicants without Internet access may contact Cheryl Corbett, NMFS, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543, by phone 508–495–2070, fax 508–495–2004, or e-mail *cheryl.corbett@noaa.gov*.

*Information Contacts:* Information may be obtained from Deirdre Boelke, New England Fishery Management Council, phone (978) 465–0492, fax (978) 465–3116, or e-mail *dboelke@nefmc.org*, from Cheryl Corbett, NMFS, Northeast Fisheries Science Center, phone 508–495–2070, fax 508–495–2004, or e-mail *ccorbett@noaa.gov*, or from Ryan Silva, NMFS, Northeast Regional Office, phone (978) 281–9326, fax (978) 281–9135, e-mail *ryan.silva@noaa.gov*.

*Eligibility:* 1. Eligible applicants are institutions of higher education, hospitals, other nonprofits, commercial organizations, individuals, state, local, and Native American tribal governments. Federal agencies and institutions are not eligible to receive Federal assistance under this notice. Additionally, employees of any Federal agency or Regional Fishery Management Council are ineligible to submit an application under this program. However, Council members who are not Federal employees may submit an application.

2. DOC/NOAA supports cultural and gender diversity and encourages women and minority individuals and groups to submit applications to the RSA program. In addition, DOC/NOAA is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in underserved areas. DOC/NOAA encourages proposals involving any of the above institutions.

3. DOC/NOAA encourages applications from members of the fishing community and applications that involve fishing community cooperation and participation.

*Cost Sharing Requirements:* None Required.

*Intergovernmental Review:* Applicants will need to determine if their state participates in the intergovernmental review process. This information can be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*. This information will assist applicants in providing either a Yes or No response to Item 16 of the Application Form, SF–424, entitled ''Application for Federal Assistance.''

5. Cooperative Research Program

*Summary Description:* The Cooperative Research Program (CRP) provides opportunity to compete for financial assistance for projects which seek to increase and improve the working relationship between fisheries researchers from NMFS, state fishery agencies, universities, and the U.S. fishing community (recreational and commercial) in the Gulf of Mexico (FL, AL, MS, LA, TX), South Atlantic (NC, SC, GA) and Caribbean (USVI and Puerto Rico). The program is a means of

involving commercial and recreational fishermen in the collection of fundamental fisheries information in support of management and regulatory options. This program addresses NOAA's mission goal to ''Protect, Restore, and Manage the Use of Coastal and Ocean Resources through an Ecosystem Approach to Management.''

*Funding Availability:* Approximately $2.0 million may be available in fiscal year (FY) 2010 for projects. Actual funding availability for this program is contingent upon FY 2010 Congressional appropriations. The NMFS Southeast Regional Office estimates awarding approximately eight projects that will range from $25,000 to $300,000. The average award is $150,000. Publication of this notice does not obligate NMFS to award any specific grant or cooperative agreement or any of the available funds.

*Statutory Authority:* Authority for the CRP is provided by the following: 15 U.S.C. 713c–3(d).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.454, Unallied Management Projects.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 4 p.m. ET, September 14, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov* unless an applicant does not have Internet access. In that case, hard copies with original signatures may be sent to: National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

*Information Contacts:* For questions regarding the application process, you may contact: Dax Ruiz, State/Federal Liaison Branch, (727) 824–5324, or *Dax.Ruiz@noaa.gov*.

*Eligibility:* Eligible applicants may be institutions of higher education, nonprofits, commercial organizations, individuals, and state, local, and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the CRP is to optimize research and development benefits from U.S. marine fishery resources. Applicants who are not commercial or recreational fisherman must have commercial or recreational fishermen participating in their project. There must be a written agreement with a fisherman describing the involvement in the project activity.

*Cost Sharing Requirements:* Cost-sharing is not required for this program.

*Intergovernmental Review:* Applications submitted by state and local governments are subject to the provisions of executive Order 12372, Intergovernmental Review of Federal Programs. Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOCs are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

6. FY 2010 Chesapeake Bay Watershed Education and Training (B–WET) Program

*Summary Description:* The Chesapeake B–WET grant program is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the entire Chesapeake Bay watershed. Funded projects assist in meeting the Stewardship and Community Engagement goals of the Chesapeake 2000 Agreement. Projects support organizations that provide students meaningful watershed educational experiences and teachers related professional development opportunities and resources related to the Chesapeake Bay watershed.

*Funding Availability:* This solicitation announces that approximately $3.5M may be available in FY 2010 in award amounts to be determined by the proposals and available funds. Funding is anticipated to maintain partnerships for up to 3 years duration, but is dependent on funding made available annually by Congress. Applicants are hereby given notice that funds have not yet been appropriated for this program.

1. About $2.5M will be for exemplary programs that successfully integrate teacher professional development on the Chesapeake Bay watershed with in-depth classroom study and outdoor experiences for their students.

2. About $500K will be for proposals that incorporate the Chesapeake Bay Interpretive Buoy System (CBIBS) into meaningful watershed educational experiences for students or related professional development for teachers.

3. About $250K will be for proposals that provide opportunities either for students to participate in Meaningful Watershed Educational Experiences (MWEEs-related to Chesapeake Bay or related Professional Development for teachers.

4. About $250K will be for capacity building proposals that address larger, systematic needs and/or provide resources to the educational community related to MWEES.

The NOAA Chesapeake Bay Office (CBO) anticipates that typical awards for B–WET Exemplary Programs that successfully integrate teacher professional development with in-depth classroom student and outdoor experiences for their students will range from $50,000 to $200,000. Projects focusing on the Chesapeake Bay Interpretive Buoy system will range from $25,000 to $200,000. Projects that represent either meaningful watershed educational experiences for students or teacher professional development in watershed education will range from $25,000 to $75,000. Projects addressing the capacity building needs of organizations will range from $15,000 to $75,000. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

*Statutory Authority:* 33 U.S.C. 893a(a), the Administrator of the National Oceanic and Atmospheric Administration is authorized to conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and

other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.457, Chesapeake Bay Studies.

*Application Deadline:* Applications must be received and validated by Grants.gov on or before 5 p.m. EDT on October 16, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline.

*Address for Submitting Proposals:* Applicants are strongly encouraged to submit applications electronically through *http://www.grants.gov*. Hard copies may be submitted by postal mail, commercial delivery service, or hand-delivery. Proposals being submitted hard copy must be received by: NOAA Chesapeake Bay Office; Education Coordinator; 410 Severn Avenue, Suite 107A, Annapolis, Maryland 21403. Facsimile transmissions and e-mail submission of proposals will not be accepted. You may access the electronic grant application for the Chesapeake Bay Watershed Education & Training Program (B–WET) at *http://www.grants.gov*. Users of Grants.gov will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site. When you enter the Grants.gov site, you will find information about submitting an application electronically through the site as well as the hours of operation.

We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov. To use Grants.gov, applicants must have a DUNS number and register in the Central Contractor Registry (CCR). You should allow a minimum of 5 days to complete the CCR registration. After electronic submission of the application, applicants will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. Electronic application packages are strongly encouraged and are available at: *http://www.grants.gov/*. Paper applications may be mailed to: Shannon Sprague, B–WET Program Manager NOAA, Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403.

*Information Contacts:* Please visit the B–WET Web site for further information at: *http://noaa.chesapeakebay.net/educationgrants.aspx* or contact the NOAA Chesapeake Bay Office; 410 Severn Avenue, Suite 107A, Annapolis, MD 21403, or by phone at 410–267–5660. B–WET contacts are as follows: Virginia/West Virginia: Ann Marie Chapman (*annmarie.chapman@noaa.gov*); Maryland's Eastern Shore/Delaware: Doug Levin (*doug.levin@noaa.gov*); Maryland/Washington, DC: Kevin Schabow (*kevin.schabow@noaa.gov*); and Pennsylvania/Other: Shannon Sprague (*shannon.sprague@noaa.gov*).

*Eligibility:* Eligible applicants are K-through-12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments in the Chesapeake Bay watershed. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in underserved areas. The NCBO encourages proposals involving any of the above institutions.

*Cost Sharing Requirements:* No cost sharing is required under this program, however, the NCBO strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process. Priority selection will be given to proposals that propose cash rather than in-kind contributions.

*Intergovernmental Review:* Applications under this program are subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

7. FY 2010 Community-Based Marine Debris Removal Project Grants

*Summary Description:* The NOAA Marine Debris Program (MDP), authorized in the Marine Debris Research, Prevention, and Reduction Act (MDRPR Act, 33 U.S.C. 1951 *et seq.*), provides funding to catalyze the implementation of locally driven, community-based marine debris prevention, assessment and removal projects that will benefit coastal habitat, waterways, and NOAA trust resources. Projects funded through the MDP have strong on-the-ground habitat components involving the removal of marine debris and derelict fishing gear, as well as activities that provide social benefits for people and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. Through this solicitation the MDP identifies marine debris removal projects, strengthens the development and implementation of habitat restoration through the removal of marine debris within communities, and fosters awareness of the effects of marine debris to further the conservation of living marine resource habitats across a wide geographic area. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement. Funding of up to $2,000,000 is expected to be available for Community-based Marine Debris Removal Project Grants in FY 2010. The NOAA MDP anticipates that typical awards will range from $15,000 to $150,000.

*Funding Availability:* This solicitation announces that funding of up to $2,000,000 is expected to be available for Community-based Marine Removal Project Grants in FY 2010. Actual funding availability for this program is contingent upon Fiscal Year 2010 Congressional appropriations. The NOAA Restoration Center anticipates that typical project awards will range from $15,000 to $150,000; NOAA will not accept proposals for under $15,000 or proposals for over $250,000 under this solicitation. There is no guarantee that sufficient funds will be available to make awards for all proposals. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for initiating marine debris removal projects by the applicants, the merit and ranking of the proposals, and the amount of funds made available to the MDP by Congress.

The NOAA Restoration Center anticipates that between 10 and 25 awards will be made as a result of this solicitation. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this document does not obligate NOAA to award any specific project or obligate all or any part of any available funds. In FY 2008, 10 applications were recommended for funding ranging from $39,000 to $175,000, for a total grant competition funding level of approximately $900,000.

This is the fourth year of the Community-based Marine Debris Removal Project Grants, a grant partnership between the NOAA Marine Debris Program and NOAA Restoration Center. These grants are funded through the NOAA Marine Debris Program with appropriations to the Office of Response and Restoration, National Ocean Service for this purpose. The NOAA Restoration Center will administer this grants program in the same manner that the Community-based Restoration Program is conducted.

*Statutory Authority:* 33 U.S.C. 1951 *et seq.*

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.463, Habitat Conservation.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. EDT, October 31, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* If the applicant does not have Internet access, a hard copy application with the SF424 bearing an original, ink signature (blue ink preferred) must be postmarked, or provided to a delivery service and documented with a receipt, by 11:59 p.m. EDT, October 31, 2009, and sent to: David Landsman, NOAA Restoration Center (F/HC3), *Attn:* MDP Project Applications, 1315 East West Highway, Rm. 14727, Silver Spring, MD 20910. Applications postmarked or provided to a delivery service after that date will not be considered for funding. Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 15 business days following the postmark closing date will not be accepted. No facsimile or electronic mail applications will be accepted. Paper applications should be printed on one side only, on 8.5″ x 11″ paper, and should not be bound in any manner.

*Information Contacts:* For further information contact David Landsman at 301–713–0174 or by e-mail at *David.Landsman@noaa.gov*.

*Eligibility:* Eligible applicants are institutions of higher education, other non-profits, commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources. Applications from federal agencies or employees of Federal agencies will not be considered. Federal agencies are strongly encouraged to work with states, on-governmental organizations, national service clubs or youth corps organizations and others that are eligible to apply.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in under-served areas. The MDP encourages proposals involving any of the above institutions.

*Cost Sharing Requirements:* A major goal of the MDP is to provide seed money to projects that leverage funds and other contributions from a broad public and private sector to implement locally important marine debris removal activities to benefit living marine resources. To this end, the MDRPR Act requires applicants to demonstrate a minimum 1:1 non-Federal match for MDP funds requested to conduct the proposed project. In addition to formal match, NOAA strongly encourages applicants to leverage as much investment as possible. However, the MDRPR Act allows the Administrator to waive all or part of the matching requirement if the applicant can demonstrate that: (1) No reasonable means are available through which applicants can meet the matching requirement, and; (2) the probable benefit of such project outweighs the public interest in such matching requirement.

In addition, the MDP shall waive any requirement for matching funds to an Insular Area (Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands). Under 48 U.S.C. 10.1469a(d), any department or agency may waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved. All applicants should note that cost sharing is an element considered in Evaluation Criterion #4. ''Project Costs.'' Match can come from a variety of public and private sources and can include in-kind goods and services such as private boat use and volunteer labor. To meet the 1:1 match requirement, applicants are permitted to combine contributions from non-federal partners, as long as such contributions are not being used to match any other funds and are available within the project period stated in the application. Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are also permitted to apply federally negotiated indirect costs in excess of federal share limits as described in Section IV.E.2. ''Indirect Costs'' of the Full Funding Opportunity announcement. The MDRPR Act allows the Administrator to authorize, as appropriate, the non-Federal share of the cost of a project to include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Successful applicants should be prepared to carefully document matching contributions, including the names of participating volunteers and the overall number of volunteer or community participation hours devoted to individual marine debris removal projects. Letters of commitment for any secured resources expected to be used as match for an award should be submitted as an attachment to the application.

*Intergovernmental Review:* Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOCs are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

8. Gulf of Mexico NOAA Bay Watershed Education and Training (B–WET) Program

*Summary Description:* The National Marine Fisheries Service (NMFS), Southeast Region, is seeking proposals under the Gulf of Mexico B–WET

Program. The B–WET program is an environmental education program that promotes locally relevant, experiential learning in the K–12 environment. Funded projects provide meaningful watershed educational experiences for students, related professional development for teachers, and helps to support regional education and environmental priorities in the northern Gulf of Mexico.

This program addresses NOAA's mission goal to ''Protect, Restore, and Manage the Use of Coastal and Ocean Resources through an Ecosystem Approach to Management.''

*Funding Availability:* It is anticipated that approximately $700,000 will be available in FY 2010 for new awards. NOAA anticipates making approximately 3 to 5 new awards during FY 2010. The total Federal amount that may be requested from NOAA shall not exceed $100,000. The minimum Federal amount that must be requested from NOAA is $25,000. Applications requesting Federal support from NOAA for more than $100,000 per year will not be considered for funding. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government.

Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

*Statutory Authority:* Authority for the Marine Fisheries Initiative Program is provided by the following: 16 U.S.C. 661.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.463, Habitat Conservation.

*Application Deadline:* Applications must be received and validated by Grants.gov on or before 5 p.m. ET on November 13, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov* unless an applicant does not have Internet access. In that case, hard copies with original signatures may be sent to: National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

*Information Contacts:* For questions regarding the application process, you may contact: Ellie Francisco Roche, Chief, State/Federal Liaison Branch, (727) 824–5324, or *Ellie.Roche@noaa.gov.*

*Eligibility:* Eligible applicants are K–12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments.

*Cost Sharing Requirements:* Cost-sharing is not required for this program.

*Intergovernmental Review:* Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs. Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOCs are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

9. Marine Fisheries Initiative (MARFIN)

*Summary Description:* The National Marine Fisheries Service (NMFS), Southeast Region, is seeking proposals under the Marine Fisheries Initiative Program (MARFIN), for research and development projects that optimize the use of fisheries in the Gulf of Mexico and off the South Atlantic states of North Carolina, South Carolina, Georgia, and Florida involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socioeconomic assessment, management and conservation, selected harvesting methods, and fish handling and processing. This program addresses NOAA's mission goal to ''Protect, Restore, and Manage the Use of Coastal and Ocean Resources Through an Ecosystem Approach to Management.''

*Funding Availability:* Approximately $2.0 million may be available in fiscal year (FY) 2010 for projects. This amount includes possible in-house projects. Actual funding availability for this program is contingent upon Fiscal Year 2010 Congressional appropriations. The NMFS Southeast Regional Office anticipates awarding approximately ten projects that will range from $25,000 to $175,000 per year. The total Federal amount that may be requested shall not exceed $350,000 for a two year project, and $525,000 for a three year project. Publication of this notice does not obligate NMFS to award any specific grant or cooperative agreement or any of the available funds. Project proposals accepted for funding with a project period over one year do not have to compete for the additional years of funding. However, funding for the additional years is contingent upon the availability of funds and satisfactory performance and is at the sole discretion of the agency.

*Statutory Authority:* Authority for the Marine Fisheries Initiative Program is provided by the following: 15 U.S.C. 713c–3(d).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.433, Marine Fisheries Initiative.

*Application Deadline:* Applications must be received and validated by Grants.gov on or before 5 p.m. EDT on August 17, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov* unless an applicant does not have Internet access. In that case, hard copies with original signatures may be sent to: National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

*Information Contacts:* For questions regarding the application process, you may contact: Ellie Francisco Roche, Chief, State/Federal Liaison Branch, (727) 824–5324, or *Ellie.Roche@noaa.gov.*

*Eligibility:* Eligible applicants may be institutions of higher education, nonprofits, commercial organizations, individuals, state, local and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since

the objective of the MARFIN program is to optimize research and development benefits from U.S. marine fishery resources.

*Cost Sharing Requirements:* Cost-sharing is not required for this program.

*Intergovernmental Review:* Applications submitted by state and local governments are subject to the provisions of executive Order 12372, Intergovernmental Review of Federal Programs. Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOCs are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

10. NOAA Coastal and Marine Habitat Restoration National and Regional Partnership Grants

*Summary Description:* NOAA delivers funding and technical expertise to restore coastal and marine habitats. These habitats support valuable fisheries and protected resources, improve the quality of our water, provide recreational opportunities for the public's use and enjoyment and buffer our coastal communities from the impacts of storms and sea level rise. Partnerships funded through NOAA have strong on-the-ground habitat restoration components that provide social and economic benefits in addition to long-term ecological habitat improvements that benefit NOAA trust resources. Through this solicitation, NOAA seeks to openly compete funding available for multi-year national and regional habitat restoration Partnerships. Partnerships will result in implementation of a wide-range of individual habitat restoration projects, from locally-driven, grass-roots projects that emphasize stewardship and hands-on restoration, to mid-scale, watershed level projects that yield significant ecological and socio-economic benefits. NOAA envisions working jointly on such Partnerships through its Community-based Restoration Program (CRP) to identify, evaluate, fund, and administer projects that offer this range of ecological, socio-economic and stewardship benefits to coastal watershed communities. This document describes the types of habitat restoration Partnerships that NOAA envisions establishing, portrays the qualities that NOAA deems desirable in such Partnerships, and describes criteria under which applications will be evaluated for funding consideration. Partnership applications selected through this announcement will be implemented through a multi-year cooperative agreement, and will ultimately involve joint selection of multiple community-based habitat restoration projects funded as sub-awards made through the Partner organization. Funding of approximately $10 million is expected to be available to establish habitat restoration Partnerships in 2010, with annual funding anticipated to maintain them for up to 3 years duration. Requests for funding to establish Partnerships typically exceed the funds available for this purpose and the selection process will be highly competitive. Typical Partnership awards will range from $500,000 to $1,000,000 per year.

Funds will be administered by the NOAA Restoration Center within NOAA Fisheries Office of Habitat Conservation. This is not a request for individual community-based habitat restoration project proposals.

*Funding Availability:* NOAA anticipates that approximately $10 million may be available in FY 2010 to establish national and regional Partnerships that will implement coastal and marine habitat restoration through sub awards. Funding is expected to be provided on an annual basis to maintain Partnerships for up to 3 years duration, and is dependent upon the level of funding made available by Congress. NOAA anticipates that typical awards for the initial year of restoration Partnerships will range from $500,000 to $1,000,000. NOAA will not accept proposals with a first year budget under $250,000 or over $5,000,000 under this solicitation. Applicants can request increases to continue scaling up Partnership activities in subsequent budget periods to a limit of $7,500,000 in FY 2011, and to $10,000,000 in FY 2012. Annual funding levels and any increases over FY 2010 levels for successful applicants will be at the discretion of the NOAA Restoration Center Chief (Chief). The Chief will make annual funding determinations for each Partner, in consultation with NOAA technical staff, based on Partnership performance, capacity of the Partner organization to generate quality projects with respect to funding potentially available to them under an award, the amount of prior year funding remaining to be expended, regional and Administration priorities, and other factors deemed important to the annual allocation process. For reference, in FY 2007 the NOAA Restoration Center established and funded 17 multi-year Partnerships for a total of $8.8 million in their first year, $7.1 million in FY 2008, and $9.8 million in FY 2009. There is no guarantee that sufficient funds will be available to make awards for all Partnership applications. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for establishing national and regional habitat restoration Partnerships by the applicants, the merit and ranking of the applications, and the amount of funds made available by Congress.

The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives, and multi-year funding requests are expected to be funded incrementally on an annual basis.

Publication of this document does not obligate NOAA to award any specific project or obligate all or any parts of any available funds.

*Statutory Authority:* The Secretary of Commerce is authorized under the following statutes to provide grants and cooperative agreements for habitat restoration: Fish and Wildlife Coordination Act 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970; Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, 16 U.S.C. 1891a.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.463, Habitat Conservation.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. EDT on September 30, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Use of a delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applicants may submit their applications through Grants.gov. If an applicant does not have Internet access, a hard copy application must be postmarked, or provided to a delivery service and documented with a receipt, by September 30, 2009 and sent to: NOAA Restoration Center, NOAA Fisheries, 1315 East West Highway, Rm. 14853, Silver Spring, MD 20910. *Attn:* Restoration Partnership Applications. Applications postmarked or provided to

a delivery service after that time will not be considered for funding.

Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 7 business days following the postmark closing date will not be accepted. No facsimile or electronic mail applications will be accepted. Paper applications should be printed on one side only, on 8.5″ × 11″ paper, and should not be bound in any manner. Applicants submitting paper applications must also include a full copy of the application as a single PDF file, including Federal forms, on a compact disc (CD).

*Information Contacts*: For further information contact Robin Bruckner or Melanie Gange at (301) 713–0174, or by e-mail at *Robin.Bruckner@noaa.gov* or *Melanie.Gange@noaa.gov*. Prospective applicants are invited to contact NOAA staff before submitting an application to discuss their partnership ideas. Additional information on habitat restoration can be found on the World Wide Web at *http://www.nmfs.noaa.gov/habitat/restoration*.

*Eligibility:* Eligible applicants are institutions of higher education, non-profits, commercial (for profit) organizations, U.S. Territories, and state, local and Indian tribal governments. Applications from Federal agencies or employees of Federal agencies will not be considered. Federal agencies are strongly encouraged to work with states, non-governmental organizations, municipal and county governments, conservation corps organizations and others that are eligible to apply.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic-serving institutions, tribal colleges and universities, and institutions that work in under-served areas. NOAA encourages applications involving any of the above institutions.

*Cost Sharing Requirements:* The overall focus of the CRP is to implement coastal and marine habitat restoration that leverages funds and other contributions from the public and private sector to accomplish broad yet locally important habitat benefits. To this end, applicants seeking national and regional Partnerships with NOAA are encouraged to demonstrate a 1:1 non-Federal match overall for federal funds requested.

Additionally, those Partnerships that propose to provide cash match toward project implementation funds at the national/regional level (before local, project-specific contributions are included) will be likely to score higher in the evaluation of project costs. While this is not a requirement, NOAA strongly advises applicants to leverage as much investment as possible. Applicants with less than 1:1 match and those that do not have cash match for project implementation funds at the national/regional level will not be disqualified, however applicants should note that cost sharing is an element considered in evaluation criteria #4. ''Project Costs'' (Section V.A.4 of the Full Funding Opportunity announcement).

Similarly, proposals that limit administrative costs to 20% at the national or regional level also will be likely to score higher on this criterion. The match can come from a variety of public and private sources and can include in-kind goods and services. Federal funds may not be considered matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are permitted to combine non-federal contributions from additional Partners in order to meet the 1:1 match expected to establish a Partnership, as long as the matching funds are not already being used to match other funding sources and are available within the project period stated in the application. Applicants are also permitted to apply federally negotiated indirect costs in excess of federal share limits as described in Section IV.E. ''Funding Restrictions'' in the Full Funding Opportunity announcement.

Applicants whose proposals are selected for habitat restoration Partnership funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Successful applicants must be prepared to carefully document matching contributions, including the number of volunteer or community participation hours devoted to individual habitat restoration projects.

*Intergovernmental Review:* Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

11. NOAA Coral Reef Conservation Grant Program/General Coral Reef Conservation Grants

*Summary Description:* The NOAA Coral Reef Conservation Program/General Coral Reef Conservation Grants (GCRCGP) provides funding to institutions of higher education, non-profit organizations, commercial organizations, Freely Associated State government agencies, and local and Indian tribal governments to support coral reef conservation projects in the United States and the Freely Associated States in the Pacific, as authorized under the Coral Reef Conservation Act of 2000. Projects funded through the GCRCGP support on-the ground efforts that: (1) Help preserve, sustain and restore the condition of coral reef ecosystems, (2) promote the wise management and sustainable use of coral reef resources, (3) increase public knowledge and awareness of coral reef ecosystems and issues regarding their conservation, and (4) develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems. Projects should complement and fill gaps in state, territorial and commonwealth coral reef programs, emphasize community-based conservation, or address local action strategy priorities. Proposals selected for funding through this solicitation require a 1:1 match and will be implemented through a grant. Funding of up to $600,000 is expected to be available for GCRCGP in FY 2010. These funds will be divided approximately equally among the U.S. Pacific and Atlantic to maintain geographic balance, as outlined in the Coral Reef Conservation Act of 2000. Awards will range from $15,000–$50,000.

*Funding Availability:* NOAA announces the availability of up to $600,000 of Federal assistance may be available in FY 2010 for the GCRCGP to support financial assistance awards for coral conservation activities. Proposals can be submitted for a minimum of $15,000 to a maximum of $50,000; NOAA will not accept proposals requesting over $50,000 of Federal funds. There is no limit on the number of applications that can be submitted by the same applicant during the 2010 competitive grant cycle.

However, multiple applications submitted by the same applicant must clearly identify different projects and must be successful in the competitive review process. The number of awards

made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for each project, the merit and ranking of the proposals, and the amount of funds made available to the Program by Congress. In addition, funding will be divided between the U.S. Pacific and U.S. Atlantic to meet requirements for geographic distribution of funds, as described in the Coral Reef Conservation Act. Attempts will also be made to fund one or more projects in each jurisdiction, provided that the project addresses priorities outlined above, it is identified as having sufficient merit, and it meets all other requirements as stipulated in this solicitation. The funds have not yet been appropriated for this program, and there is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds.

*Statutory Authority:* Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.463, Habitat Conservation.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. EDT on November 2, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Use of a delivery service must be documented with a receipt. Applications postmarked or provided to a delivery service after that time will not be accepted for funding. Applications submitted via U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 15 business days following the postmarked closing date will not be accepted. No facsimile or electronic mail applications will be accepted. There will be no extensions beyond these dates. If an application is not submitted through grants.gov or postmarked by the deadline listed above, it will not be reviewed or considered for FY 2010 funding.

*Address for Submitting Proposals:* Applicants may submit their applications through Grants.gov. If Internet access is unavailable, hard copies can be submitted to: Jennifer Koss, NOAA Coral Reef Conservation Program, NOAA Fisheries, Office of Habitat Conservation (F/HC), 1315 East West Highway, Silver Spring, MD 20910. *Attn:* CRCGP Project Applications. Applicants submitted by mail are required to include original signed and dated copies of the Federal financial assistance forms. Electronic copies of the project narrative and budget narrative are requested with the submission of a paper application. Please submit these to *Jennifer.Koss@noaa.gov*. All applicants, both electronic and paper, should be aware that adequate time must be factored into applicant schedules for delivery of the application. Electronic applicants are advised that volume on Grants.gov is currently extremely heavy, and if Grants.gov is unable to accept applications electronically in a timely fashion, applicants are encouraged to exercise their option to submit applications in paper format. Paper applicants should allow adequate time to ensure a paper application will be received on time, taking into account that guaranteed overnight carriers are not always able to fulfill their guarantees.

*Information Contacts:* Technical point of contact for NOAA Coral Reef Conservation Grant Program/General Grants is Jennifer Koss, 301–713–4300 extension 165 or e-mail at *Jennifer.Koss@noaa.gov*.

*Eligibility:* Institutions of higher education, non-profit organizations, commercial organizations, local and Indian tribal governments and Freely Associated State Government Agencies can apply for funding under the GCRCGP. U.S. federal, state, territory, and commonwealth governments and Regional Fishery Management Councils are not eligible under this category. NOAA employees are not allowed to help in the preparation of applications or write letters of support for any application. NOAA staff are available to provide information on programmatic goals and objectives, ongoing coral reef conservation programs, Regional funding priorities, and, along with other Federal Program Officers, can provide information on application procedures and completion of required forms. For activities that involve collaboration with current NOAA programs or staff, NOAA employees must provide a letter verifying that they are collaborating with the project.

Federal employee travel and salaries are not allowable costs under this program.

*Cost Sharing Requirements:* As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the project. All GCRCGP projects submitted to this program require a 1:1 match obtained from non-Federal sources.

Applicants must specify in their proposal the source of the match and provide letters of commitment to confirm stated match contributions. The match can include in-kind contributions and other non-cash support. Applicants are permitted to combine contributions from additional non-Federal partners in order to meet the 1:1 match expected, as long as such contributions are not being used to match any other funds. Federal funds may not be used as matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process, with cash being the preferred method of contribution. Applicants with less than 1:1 match will not be disqualified, if they provide justification for a lower amount of matching funds, however, applicants should note that cost sharing is an element considered in IV.E. Evaluation Criterion, 4. Project Costs in the Full Funding Opportunity. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: (1) No reasonable means are available through which an applicant can meet the matching requirement; and (2) the probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification at the time the proposal is submitted explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Eligible applicants choosing to apply 48 U.S.C. 1469a(d) must include a letter requesting a waiver that

demonstrates that their project meets the requirements of 48 U.S.C. 1469a(d).

*Intergovernmental Review:* Applications under this Program are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SSPOC) established as a result of EO 12372. The SSPOC for your state can be found at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

12. NOAA Coral Reef Conservation Grant Program/Projects To Improve or Amend Coral Reef Fishery Management Plans

*Summary Description:* The NOAA Coral Reef Conservation Grant Program/Projects to Improve or Amend Coral Reef Fishery Management Plans (CRFMPGP) provides funding to the Regional Fishery Management Councils for projects to conserve and manage coral reef fisheries, as authorized under the Coral Reef Conservation Act of 2000. Projects funded through the CRFMPGP are for activities that (1) provide better scientific information on the status of coral reef fisheries resources, critical habitats of importance to coral reef fishes, and the impacts of fishing on these species and habitats; (2) identify new management approaches that protect coral reef biodiversity and ecosystem function through regulation of fishing and other extractive uses; and (3) incorporate conservation and sustainable management measures into existing or new Federal fishery management plans for coral reef species. Proposals selected for funding through this solicitation will be implemented through a Cooperative Agreement. The role of NOAA in the CRFMPGP is to help identify potential projects that reduce impacts of fishing on coral reef ecosystems, strengthen the development and implementation of the projects, and assist in coordination of these efforts with Federal state, territory or commonwealth management authorities and various coral reef user groups.

Funding up to $1,050,000 is expected to be available for CRFMPGP Cooperative Agreements in FY 2010. These funds will be divided equally among the Atlantic and Pacific to maintain the geographic split required by the Act. The NOAA Coral Reef Conservation Program anticipates that awards will range from $175,000–$525,000.

*Funding Availability:* This solicitation announces that approximately $1,050,000 is expected to be available for cooperative agreements in support of coral reef conservation activities for Projects to Improve or Amend Coral Reef Fishery Management Plans (CRFMPGP) in fiscal year 2010. Actual funding availability for this program is contingent upon fiscal year 2010 Congressional appropriations. The NOAA Coral Reef Conservation Program anticipates that typical project awards will range from about $175,000 to $525,000; NOAA will not accept proposals for over $525,000 under this solicitation. Equal funding will be provided to the Atlantic and Pacific, up to a maximum of $525,000 for activities in the Western Pacific, and a maximum of $525,000 for activities in the South Atlantic, the Gulf of Mexico, and the Caribbean. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives.

Activities approved by NOAA will be awarded as new cooperative agreements through the NMFS Office of Habitat Conservation (HC). The number of awards made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for each project, the merit and ranking of the proposals, and the amount of funds made available to the Program by Congress. The funds have not yet been appropriated for this program, and there is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds.

*Statutory Authority:* Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.441, Regional Fishery Management Councils.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. ET, on November 2, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Federal forms should be filled out and submitted on line at *www.grants.gov* with the rest of the grant application. If applicants are unable to submit through *www.grants.gov*, an original paper copy of signed Federal financial assistance forms and the complete project narrative and budget narrative must be submitted by mail to: Jennifer Koss, NOAA Coral Reef Conservation Program, NOAA Fisheries, Office of Habitat Conservation (F/HC1), 1315 East West Highway, Silver Spring, MD 20910. *Attn:* CRCGP Project Applications. Electronic copies of the project narrative and budget narrative are requested when submitting by mail (*liz.fairey@noaa.gov*), however e-mail applications submitted without a mailed hard copy with appropriate postal date stamp will not be accepted.

*Information Contacts:* Technical point of contact for NOAA Coral Reef Conservation Grant Program/General Grants is Jennifer Koss, 301–713–4300 or e-mail at *Jennifer.Koss@noaa.gov.*

*Eligibility:* Eligible applicants are limited to the Western Pacific Regional Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council.

*Cost Sharing Requirements:* No cost sharing or matching is required under this program. The Administrator has waived the matching requirement for the Fishery Management Councils as discussed in Section VII of the Coral Reef Conservation Grant Program Implementation Guidelines (**Federal Register** Vol. 67, No. 76, page 19396, Friday, April 19, 2002.). This waiver is based on the fact that the Councils are funded solely by awards from the U.S. Federal Government, and therefore, do not have the ability to generate matching funds.

*Intergovernmental Review:* Applications under this CRFMPGP are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. Specific information regarding Intergovernmental Review can be found above in Section IV. Application and Submission Information, D. Intergovernmental Review in the Full Funding Opportunity.

13. NOAA New England Bay Watershed Education and Training (B–WET) Program

*Summary Description:* NOAA B–WET is an environmental education program that promotes locally relevant, experiential learning in the K–12 environment. Funded projects provide meaningful watershed educational

experiences for students, related professional development for teachers, and helps to support regional education and environmental priorities in New England.

*Funding Availability:* It is anticipated that approximately $300,000 will be available in FY 2010 for new awards. NOAA anticipates making approximately 2 to 5 new awards during FY 2010. NOAA will consider only projects with duration of 1 to 3 years. The total Federal amount that may be requested from NOAA shall not exceed $100,000 per year and $300,000 for all years of the proposed project. The minimum Federal amount that must be requested from NOAA for one year is $10,000 and for all years is $30,000.

Applications requesting Federal support from NOAA of less than $10,000 for one year or more than $100,000 per year and $300,000 total for the duration of the project will not be considered for funding. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives.

Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

*Statutory Authority:* Under 33 U.S.C 893a(a), the Administrator of the National Oceanic and Atmospheric Administration is authorized to conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.469, Congressionally Identified Awards and Projects.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EDT, October 2, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt.

*Address for Submitting Proposals:* Applications submitted through Grants.gov will be accompanied by an automated receipt of the date and time of submission. Hard copy applications will be hand stamped with time and date when received in the NOAA Fisheries, Northeast Regional Office (Attn: New England B–WET Program). Note that late-arriving hard copy applications provided to a delivery service on or before 5 p.m., EDT October 2, 2009 will be accepted for review if the applicant can document that the application was provided to the guaranteed delivery service by the specified closing date and time, and if the proposals are received NOAA Fisheries, Northeast Regional Office by 5 p.m., EDT, no later than 2 business days following the closing date. Applicants are recommended to send hard copies via expedited shipping methods (e.g., Airborne Express, DHL, FedEx, UPS, etc.). No e-mail and/or facsimile pre-proposals and/or full applications will be accepted. Applications that are late or are received by fax or e-mail will not be considered for review. Important: All applicants, both electronic and paper, should be aware that adequate time must be factored into applicant schedules for delivery of the application. Electronic applicants are advised that volume on Grants.gov is currently extremely heavy, and if Grants.gov is unable to accept applications electronically in a timely fashion, applicants are encouraged to exercise their option to submit applications in paper format. Paper applicants should allow adequate time to ensure a paper application will be received on time, taking into account that guaranteed overnight carriers are not always able to fulfill their guarantees.

*Information Contacts:* Kathi Rodrigues, New England B–WET Program Manager, NOAA, 55 Great Republic Drive, Gloucester, MA 01930–2276, or via e-mail at *kathi.rodrigues@noaa.gov.* Questions about this opportunity may also be directed to Bronwen Rice, B–WET National Coordinator, by phone at 202–482–6797 or e-mail at *bronwen.rice@noaa.gov.*

*Eligibility:* Eligible applicants are K–12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that service underserved areas. While applicants do not need to be from the targeted geographical regions specified in the program objectives, they must be working with target audiences in these areas.

*Cost Sharing Requirements:* No cost sharing is required under this program, however, the NOAA B–WET Program strongly encourages applicants include a 25% or higher match. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash vs. in-kind) and the amount of matching funds will be taken into consideration during the review process. Priority selection is given to proposals that propose cash rather than in-kind services.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

14. John H. Prescott Marine Mammal Rescue Assistance Grant Program 2010

*Summary Description:* The Marine Mammal Health and Stranding Response Program of the National Marine Fisheries Service is charged under the Marine Mammal Protection Act with facilitating the collection and dissemination of reference data on stranded marine mammals and health trends of marine mammal populations in the wild. Through cooperation with NMFS Regional Coordinators, local organizations and state and local government officials respond to and collect valuable data from stranded marine mammals as participants in the national Marine Mammal Stranding Network. The John H. Prescott Marine Mammal Rescue Assistance Grant Program is conducted by NOAA to provide Federal assistance to eligible members of the Stranding Network to: (1) Support basic needs of organizations for response, treatment, and data collection from living and dead stranded marine mammals, (2) fund

scientific research objectives designed to answer questions about marine mammal strandings, health, or rehabilitation techniques utilizing data from living and dead stranded marine mammals, and (3) support facility operations directly related to the recovery or treatment of stranded marine mammals and collection of data from living or dead stranded marine mammals.

*Funding Availability:* This solicitation announces that approximately $4,000,000 may be available for distribution under the FY 2010 annual competitive Prescott Grant Program.

Applicants are hereby given notice that these funds have not yet been appropriated for this program. Therefore, exact dollar amounts cannot be given. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The maximum Federal award for each grant cannot exceed $100,000, as is stated in the legislative language 16 U.S.C. 1421f–1. Funds may be set aside from the annual appropriation to provide for emergency assistance awards to eligible stranding network participants. These emergency funds will be available until expended. There is no limit on the number of proposals that can be submitted by the same stranding network participant during the 2010 competitive grant cycle. However, since there are insufficient funds to award financial assistance to every member of the network, organizations will receive no more than two awards per year as part of the competitive program. The two awards must be for projects that are clearly separate in their objectives, goals, and budget requests and must be successful in the competitive review process. The two projects should be completely independent (i.e., you will be able to carry out either proposal even if the other does not receive funding). Eligible researchers applying as Principal Investigators, but not independently authorized under MMPA Section 112(c), MMPA Section 109(h) (50 CFR 216.22), or the National Contingency Plan for Response to Marine Mammal Unusual Mortality Events, can only receive one award per year as part of the competitive cycle.

Authorized stranding network participants and researchers may be identified as Co-Investigators or collaborators on as many proposals as needed as long as no more than 100 percent of their time is funded through the Prescott Grant Program. In addition, Department of Commerce (DOC) and Department of Interior (DOI) employees may act as collaborators if they are responsible for performing analyses on data or samples collected under a Prescott award. See the section entitled Eligibility for information regarding the eligibility requirements.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If an application for a financial assistance award is selected for funding, NOAA/NMFS has no obligation to provide any additional funding in connection with that award in subsequent years beyond the award period. If an applicant incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, the applicant would do so solely at their own risk of these costs not being included under the award.

Notwithstanding any verbal or written assurance that applicants have received, pre-award costs are not allowed under the award unless the Grants Officer approves them in accordance with 15 CFR 14.28.

*Statutory Authority:* 16 U.S.C. 1421f–1

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.439, Marine Mammal Data Program.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. EDT, October 5, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Submit your application electronically through Grants.gov at *www.grants.gov*. For those applicants without Internet access submit your applications to: Prescott Grant Program, NOAA/NMFS/Office of Protected Resources (F/PR), 1315 East-West Highway, Room 13620, Silver Spring, MD 20910.

*Information Contacts:* The point of contact is: Michelle Ordono, Prescott Grant Program, NOAA/NMFS/Office of Protected Resources (F/PR), 1315 East-West Highway, Room 13620, Silver Spring, MD 20910; Phone: (301) 713–2322; or e-mail at *Michelle.Ordono@noaa.gov*.

*Eligibility:* There are three categories of eligible stranding network participants that may apply for funds under the Prescott Grant Program: (1) Stranding Agreement (SA) holders or their designee organizations; (2) holders of researcher authorization letters issued by a NMFS Regional Administrator; and (3) eligible Federal, state, or local government personnel or tribal personnel.

All applicants must currently be: 1. Active as an authorized participant or researcher in the marine mammal stranding network; 2. ''In good standing;'' and 3. Not a current full or part-time employee or contractor of DOC or DOI. To be ''in good standing,'' you must meet all of the following criteria: 1. If the applicant is a designated Principal Investigator of an MMPA and/or Endangered Species Act (ESA) scientific research or enhancement permit holder, the applicant must have fulfilled all permit requirements including submission of all reports. The applicant must not have any pending or outstanding enforcement actions under the MMPA or ESA. 2. Have complied with the terms and responsibilities of the appropriate SA, MMPA Section 109(h) authorization, or researcher authorization letter. This includes, but is not limited to, the following reporting requirements: (a) Timely reporting of strandings to NMFS; (b) timely submission of complete reports on basic or Level A data to the Regional Coordinator (includes investigator's name, species, stranding location, number of animals, date and time of stranding and recovery, length and condition, and sex; marine mammal parts retention or transfer; annual reports); and (c) collecting information or samples as necessary and as requested. This also includes the following coordination/cooperation requirements: (a) Cooperation with state, local, and Federal officials; (b) cooperation with state and local officials in the disposition of stranded marine mammals; and (c) cooperation with other stranding network participants. 3. Have cooperated in a timely manner with NMFS in collecting and submitting Level B (supplementary information regarding sample collection related to life history and to the stranding event) and Level C (necropsy results) data and samples, when requested. 4. Have no current enforcement investigation for the take of marine mammals contrary to MMPA/ESA regulations. 5. Have no record of a pending NMFS notice of violation(s) regarding the policies governing the goals and operations of the Stranding Network and Stranding

Agreement, if applicable (e.g., probation, suspension, or termination).

In addition to these general criteria, organizations and individuals must meet the following eligibility criteria specific to their category of participation: 1. SA Holder Participant or SA Designee Participant. SA participants must be holding a current (active) SA for stranding response (either live or dead animal response) or rehabilitation from a NMFS Regional Administrator or the Assistant Administrator. SA Designee participants must be holding a current (active) letter of designation from a NMFS SA holder, and designees cannot request authorization for activities beyond the scope of what is authorized by the SA to the letter holder. 2. Researcher Participant. Researcher participants must be holding a current (active) authorizing letter for the proposed award period from the NMFS Regional Administrator or the Assistant Administrator to salvage stranded marine mammal specimens and parts or samples therefrom for the purpose of utilization in scientific research (50 CFR 216.22). Persons authorized to salvage dead marine mammal specimens under this section must register the salvage with the appropriate NMFS Regional Office within 30 days after the taking occurs. Researchers who are authorized under an MMPA/ESA Scientific Research Permit must still obtain an authorizing letter from the Regional Stranding Coordinator in order to use parts or specimens from stranded animals. Researcher participants that would not require an authorizing letter from the NMFS Regional Administrator (i.e., they will be working with data only and not possessing samples or specimens) must still provide a letter of eligibility from the Regional Stranding Coordinator (*see* IV.B.8 in the Full Funding Opportunity). Researcher participants must also have designated Co-Investigator(s) that are active NMFS authorized stranding network participants in good standing, and provide documentation to this effect. 3. State, Local, Federal Government Employees or Tribal Participants, State and local government officials or employees participating pursuant to MMPA Section 109(h) (16 U.S.C. 1379(h)) for marine mammal species not listed under the ESA must fulfill reporting obligations outlined in 50 CFR 216.22. Government officials must be involved in areas of geographic need (i.e., municipality or larger region with no existing SA holder responder). Applicants must submit the required documentation in their proposal (*see* Section IV, Application and Submission Information in the Full Funding Opportunity) as evidence that they are an SA holder or designee participant, researcher participant, or a Federal, state, or local government employee, or tribal participant at the time of the submission and during the award period. All eligibility criteria specified for the participant's category must be met in order for a proposal to be considered for funding.

We support cultural and gender diversity in our programs and encourage eligible women and minority individuals and groups to submit proposals. Furthermore, we recognize the interest of the Secretaries of Commerce and Interior in defining appropriate marine management policies and programs that meet the needs of the U.S. insular areas. We encourage proposals from eligible individuals, government entities, universities, colleges, and businesses in U.S. insular areas as defined by the MMPA (Section 3(14), 16 U.S.C. 1362). This includes the Commonwealth of Puerto Rico, the U. S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. We are strongly committed to broadening the participation of Minority Serving Institutions (MSIs), which include Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and institutions that work in underserved areas in our programs. The DOC/NOAA/NMFS vision, mission, and goals are: To achieve full participation by MSIs; to advance the development of human potential; to strengthen the Nation's capacity to provide high-quality education; and to increase opportunities for MSIs to participate in, and benefit from, Federal financial assistance programs. The Prescott Grant Program encourages all eligible applicants to include meaningful participation of MSIs whenever practicable.

Applicants are not eligible to submit a proposal under this program if they are an employee of the DOC or DOI. NOAA/NMFS employees (whether full-time, part-time, or intermittent) are not allowed to help in the preparation of proposals, except for providing information on data or sample analyses as an identified collaborator/Co-Investigator in the proposal. Since this is a competitive program, NOAA/NMFS employees cannot provide assistance in conceptualizing, developing, or structuring proposals, or write letters of support for any proposal. However, for activities that involve collaboration with current NOAA programs that include, but are not limited to, the National Marine Mammal Tissue Bank (NMMTB) or laboratories conducting analysis of tissues for contaminants, employees of NOAA or the National Institute of Standards and Technology can write a letter verifying that they are collaborating with the project, or that the organization or individual applying is trained to participate in the NMMTB or is currently participating in the National Marine Analytical Quality Assurance Program. Proposals encompassing activities conducted under the authority of a MMPA Scientific Research Permit issued to a DOC or DOI organization (e.g., NMFS Regional Science Center) should include a copy of the permit and a letter from the Principal Investigator (DOC/DOI employee) verifying that the work is being conducted with their approval. Federal employee travel costs or salaries are not allowable costs under this program. MMHSRP staff (at the Regional and National level) are available to provide information regarding statistics on strandings; MMHSRP programmatic goals and objectives; ongoing marine mammal programs; and regional funding priorities for the current and previous Prescott solicitations. MMHSRP staff and other Federal Program Officers can provide guidance on application procedures and proper completion of required forms.

Unsatisfactory performance under prior or current Federal awards, including delinquency in submitting progress and financial reports, may result in proposals not being considered for funding under the 2010 Prescott Grant Program.

*Cost Sharing Requirements:* All proposals submitted must provide a minimum non-Federal cost share of 25 percent of the total budget (i.e., .25 × total project costs = total non-Federal share). Therefore, the total Federal share will be 75 percent or less of the total budget. For a proposed total Federal share of $100,000, the minimum non-Federal share is $33,334 (total budget of $133,334; .25 × $133, 334 = $33,334). For a proposed total Federal share of $80,000, the minimum non-Federal share is $26,667 (total budget of $106,667; .25 × $106,667 = $80,000). Cost share must be an integer, so please round up. The applicant can include a non-Federal cost share for more than 25 percent of the total budget, but this obligation will be binding. In order to reduce calculation error when determining the correct cost share amounts, we urge all applicants to use the cost share calculator on the Prescott Program webpage (*http://*

*www.nmfs.noaa.gov/pr/health/prescott/proposals/costshare.htm*).

Legislation under which the Prescott Grant Program operates requires this cost sharing, or non-Federal match, to leverage the limited funds available for this program and to encourage partnerships among government, private organizations, non-profit organizations, the stranding network, and academia to address the needs of marine mammal health and stranding response. If a proposal does not comply with these cost share requirements, the proposal will not be returned to the applicant and it will not be considered in this annual funding cycle. Pursuant to 48 U.S.C. 1469a, match may be waived for applicants that are residents in the U.S. insular areas (Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the U. S. Virgin Islands).

The Federal Program Officer will determine the appropriateness of all non-Federal cost sharing proposals, including the valuation of in-kind contributions, according to the regulations in 15 CFR 14.23 and 24.24. An in-kind contribution is a non-cash contribution, donated or loaned, by a third party to the applicant.

In general, the value of in-kind services or property used to fulfill a non-Federal cost share will be the fair market value of the services or property. The fair market value is the cost of obtaining such services or property, had they not been donated, or of obtaining such services or property for the period of a loan. The applicant must document the in-kind services or property used to fulfill the non-Federal cost share. If we decide to fund a proposal, we will require strict accounting of the in-kind contributions within the total non-Federal cost share included in the award document. The Grants Officer is the DOC official responsible for all business management and administrative aspects of a grant and with delegated authority to award, amend, administer, close out, suspend, and/or terminate awards. The Grants Officer is the final approving authority for the award, including the budget and any cost-sharing proposals.

*Intergovernmental Review:* Applications submitted under this program are subject to the provisions of Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. For information on a State's process under EO 12372, the SPOC's are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

15. Protected Species Cooperative Conservation

*Summary Description:* States play an essential role in the conservation and recovery of endangered and threatened species. Protected species under the National Marine Fisheries Service's (NMFS) jurisdiction may spend all or a part of their life-cycles in state waters, and success in conserving these species will depend in large part on working cooperatively with state agencies. The NMFS is authorized to provide Federal assistance to eligible States to support the development of conservation programs for marine and anadromous species that reside within that State. This assistance, provided in the form of grants through the Protected Species Cooperative Conservation program, can be used to support conservation of endangered, threatened, and candidate or proposed species, as well as post-delisting monitoring of recovered species. Funded activities may include development and implementation of management plans, scientific research, and public education and outreach; proposals should address priority actions identified in an ESA Recovery Plan, a State's ESA Section 6 Program, or a State Wildlife Action Plan. Any State agency that has entered into or applied for an agreement with the NMFS pursuant to section 6(c) of the ESA is eligible to apply under this solicitation. Proposals focusing on listed Pacific salmon will not be considered for funding under this grant program; such projects can be considered under a NMFS Pacific salmon grant program. This document describes how to submit proposals for funding in fiscal year (FY) 2010 and how the NMFS will determine which proposals will be funded; this document should be read in its entirety, as some information has changed from the previous year.

*Funding Availability:* NOAA anticipates that up to $12 million may be available for distribution under the FY 2010 PSCC program; awards are expected to range between $500,000 and $2,000,000 in federal funding per year. Applications requesting less than $200,000 in federal funding per year may receive lower priority. The exact amount of funds that may be awarded will be determined during pre-award negotiations between the applicant and NOAA representatives. Funds have not yet been appropriated for this program, and there is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific grant proposal or to obligate any available funds. NOAA will consider funding more than one project under a single application. Applicants that bundle projects into a single application should ensure that there is sufficient detail for each project as per the guidelines and information requirements listed in this document if an application is to be competitive. Bundled projects should address the same or related species (e.g. shortnose and Atlantic sturgeon) or species that share similar habitats to allow for appropriate review of the proposal. There is no limit on the number of applications that can be submitted by the same Principal Investigator, agency, or State. Multiple applications submitted by the same applicant must, however, clearly identify distinct projects. If an application for a financial assistance award is selected for funding, NOAA has no obligation to provide any additional funding in connection with that award in subsequent years. Notwithstanding verbal or written assurance that may have been received, pre-award costs are not allowed under the award unless approved by the Grants Officer.

*Statutory Authority:* 16 U.S.C. 661 *et seq.;* 16 U.S.C. 1535.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.472, Unallied Science Program.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. EDT, October 5, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications should be submitted electronically through the Grants.gov Web site at *http://www.grants.gov*. NOAA strongly recommends that applicants do not wait until the application deadline to begin the application process through Grants.gov. To use Grants.gov, applicants must have a DUNS number and register in the Central Contractor Registry (CCR). Applicants should allow at least 5 business days to complete the CCR

registration; registration is only required once. Also, it may take Grants.gov up to two business days to validate or reject an application. Please keep this in mind when developing your submission timeline. Following submission of applications through Grants.gov, applicants should receive two automated responses from Grants.gov: One confirms receipt of the application; the other confirms that the application has been forwarded to NOAA. If both confirmation messages from Grants.gov are not received, applicants should contact both the Grants.gov Helpdesk and the NMFS Office of Protected Resources to confirm the application has been transmitted and received by NOAA. For applicants lacking Internet access, hard copies may be submitted (by postal mail or commercial delivery) to the NMFS Office of Protected Resources, Attn: Lisa Manning, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910. Applications submitted by U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. Use of a delivery service other than U.S. mail must be documented with a receipt. Paper applications should be printed on one side only, on 8.5 inch x 11 inch paper, and not be bound in any manner. A signed (in ink) SF 424 must be included. No facsimile or electronic mail applications will be accepted.

*Information Contacts:* If you have any questions regarding this proposal solicitation, please contact Lisa Manning at the NOAA/NMFS/Office of Protected Resources, Endangered Species Division, 1315 East-West Highway, Silver Spring, MD 20910, by phone at 301–713–1401, or by e-mail at *Lisa.Manning@noaa.gov*. You may also contact one of the following people in your region for further guidance: Amanda Johnson, Northeast Regional Office *Amanda.Johnson@noaa.gov*, 978–282–8463); Karla Reece, Southeast Regional Office *Karla.Reece@noaa.gov*, 727–824–5348); Scott Rumsey, Northwest Regional Office *Scott.Rumsey@noaa.gov*, 503–872–2791); Scott Hill, Southwest Regional Office *Scott.Hill@noaa.gov*, 562–908–872–5348); Kaja Brix, Alaska Regional Office *Kaja.Brix@noaa.gov*, 907–586–7824); Krista Graham, Pacific Islands Regional Office, *Krista.Graham@noaa.gov*, 808–944–2238).

*Eligibility:* Eligible applicants are state agencies that have entered into an agreement with NMFS pursuant to section 6(c) of the ESA. The terms ''state'' and ''state agency'' are used as defined in section 3 of the ESA (16 U.S.C. 1532). Currently eligible state agencies are from the following states: Delaware, Florida, Georgia, Hawaii, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Puerto Rico, South Carolina, the U.S. Virgin Islands, and Washington. Any state agency that enters into a section 6(c) agreement with NMFS within 60 days following the grant application deadline is also eligible to apply. State agencies may apply for funding to conduct work on federally listed species that are included in their ESA section 6 agreement and any species that has become a candidate or a proposed species by the grant application deadline. State agencies may not apply for funding to conduct work on federally listed species that are not covered in their ESA section 6 agreement unless said species is added to the agreement within 60 days following the grant application deadline. Federal agencies or institutions are not eligible to receive Federal assistance under this notice. In addition, NOAA and NMFS employees shall not provide assistance in writing applications, write letters of support for any application, or otherwise confer any unfair advantage on a particular application. However, for activities involving collaboration with current NMFS programs, NMFS employees can write a letter verifying that they are collaborating with the project.

*Cost Sharing Requirements:* In accordance with section 6(d) of the ESA, proposals must include a minimum non-Federal cost share of 25 percent of the total budget if the proposal involves a single state. If a proposal involves collaboration of two or more states, the minimum non-Federal cost share decreases to 10 percent of the total project budget. The project proposal and budget should reflect the work and responsibilities to be carried out by each of the cooperating states. The non-Federal cost share should be identified in the project budget (and on the SF–424A) and may include in-kind contributions according to the regulations at 15 CFR part 24. Match requirements of section 6(d) of the ESA do not apply to insular areas covered by the Omnibus Insular Areas Act of 1977 (48 U.S.C. 1469a) including Guam, American Samoa, Northern Mariana Islands, and the U.S. Virgin Islands.

*Intergovernmental Review:* Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

*National Ocean Service (NOS)*

1. 2010 NOAA Coral Reef Management Grant Program

*Summary Description:* The NOAA Coral Reef Management Grant Program, as authorized under the Coral Reef Conservation Act of 2000, provides matching grants to the Governor appointed point of contact agencies for the jurisdictions of Puerto Rico, the U.S. Virgin Islands (USVI), Florida, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa for State and Territory Coral Reef Management activities. The objective of the NOAA Coral Reef Management Grant program is to support comprehensive management programs for the conservation of coral reef ecosystems in these jurisdictions.

*Funding Availability:* Funding up to $2,700,000 is expected to be available from NOAA/CRCP for cooperative agreements to support priority coral reef management activities that address areas 1–10 in the Federal Funding Opportunity. There is no appropriation of funds at this time and the final funding amount will be subject to the availability of federal appropriations. Support in out-years following FY 2010 is likewise contingent upon the availability of future funding and the requirements of the Federal agency supporting the project. Each eligible jurisdiction can apply for a maximum of $600,000. A minimum of 50% of the final award amount must be dedicated to the implementation and support of the Local Action Strategy initiative and/or the outcomes of the state and territory coral reef management priority setting processes. In certain instances, when requested by the applicant, NOAA may hold back a portion of any awarded funds in order to provide specific coral reef conservation technical assistance in the form of contractual or other services. This will only be allowed where such priority technical assistance and/or the lack of sufficient means to deliver it are unavailable at the local level. Such requests proposed herein will be reviewed on a case by case basis with respect to the specific management objectives of this and the local coral reef program. If all funds that become available after Congressional appropriation are not awarded, NOAA will consult with the eligible applicants on the use of any residual funds. NOAA will work with each jurisdiction to ensure the greatest degree of success in meeting local, state, territorial and national coral reef management needs.

*Statutory Authority:* Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403

(Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.419, Coastal Zone Management Administration Awards.

*Application Deadline:* Pre-applications must be received no later than 5 p.m. EST on Monday, November 30, 2009. A pre-application must be submitted for review in order to submit a full application. Final applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. ET, March 12, 2010. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* If Internet access is not available, submissions by surface mail should be sent to Jenny Waddell, 1305 East West Highway, 10th Floor, N/ORM, Silver Spring, MD 20910, or telephone 301–713–3155 extension 150. Final applications must be submitted electronically to: *www.grants.gov*, the Federal grants portal. If Internet access is unavailable, hard copies can be submitted to Jenny Waddell, 1305 East West Highway, 10th Floor, N/ORM, Silver Spring, MD 20910, or telephone 301–713–3155 extension 150.

*Information Contacts*: Technical point of contact for State and Territory Coral Reef Management is Jenny Waddell, 1305 East West Highway, 10th Floor, N/ORM, Silver Spring, MD 20910, or telephone 301–713–3155 extension 150.

*Eligibility:* Eligible applicants are the governor-appointed point of contact agencies for coral reef activities in each of the jurisdictions of American Samoa, Florida, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

*Cost Sharing Requirements:* As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects. Therefore, any coral conservation project under this program requires a 1:1 match. Match can come from a variety of public and private sources and can include in-kind goods and services such as private boat use and volunteer labor. Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are permitted to combine contributions from multiple non-federal partners in order to meet the 1:1 match requirement, as long as such contributions are not being used to match any other funds.

Applicants must specify in their proposal the source(s) of match and may be asked to provide letters of commitment to confirm stated match contributions. Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Applicants should be prepared to carefully document matching contributions for each project selected to be funded. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: 1. No reasonable means are available through which an applicant can meet the matching requirement, and, 2. The probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Match waiver requests including the appropriate justification should be submitted as part of the final application package. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. **Please Note:** eligible applicants choosing to apply 48 U.S.C. 1469a(d)should note the use of the waiver and the total amount of funds requested to be waived in the matching funds section of the respective application.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

2. 2010 NOAA Coral Reef Monitoring Grant Program

*Summary Description:* The NOAA Coral Reef Monitoring Grant Program, as authorized under the Coral Reef Conservation Act of 2000, provides matching grants to Governor appointed point of contact agencies for the jurisdictions of Puerto Rico, the U.S. Virgin Islands (USVI), Florida, Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), the Republic of Palau, the Federated States of Micronesia (including Chuuk, Yap, Kosrae, and Pohnpei), and the Republic of the Marshall Islands to support State and Territory Coral Reef Monitoring activities in these jurisdictions.

*Funding Availability:* NCCOS may provide approximately $1,100,000 in funding for FY 2010 to support coral reef ecosystem monitoring activities under this program. FY 2010 awards to Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands are expected to range from $50,000 to $130,000. FY 2010 awards to the Federated States of Micronesia (FSM—including Chuuk, Yap, Kosrae, and Pohnpei), Republic of Palau, and the Republic of the Marshall Islands (RMI) are expected to be approximately $30,000 per year. Funding will be subject to the availability of federal appropriations. FY 2010 grant seekers may submit proposals up to three years in duration, at funding levels specified above (i.e., up to $90,000 for three year proposals for Palau, FSM, and RMI, and up to $390,000 for three year proposals for all other eligible applicants). In certain instances, when requested by the applicant and agreed upon by NOAA, NOAA may hold back a portion of any awarded funds in order to provide specific technical assistance in the form of contractual or other services. This will only be allowed where such priority technical assistance and/or the lack of sufficient means to deliver it are unavailable at the local level. Such requests proposed herein will be reviewed on a case by case basis with respect to the specific management objectives of this and the local coral reef program. If all available funds are not awarded, NOAA will consult with the eligible applicants on the use of any residual funds. NOAA will work with each jurisdiction to ensure the greatest degree of success in meeting local, state, territorial, and national coral reef

monitoring needs in support of coral reef management objectives.

*Statutory Authority:* Authority for the NOAA Coral Reef Monitoring Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.426, Financial Assistance for National Centers for Central Coastal Ocean Science.

*Application Deadline:* Pre-applications must be received no later than 5 p.m. EST on Friday, November 20, 2009. A pre-application must be submitted for review in order to submit a full application. Final applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EST, February 19, 2010. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration.

*Address for Submitting Proposals:* Pre-applications must be sent to *coral.grants@noaa.gov* or to Jenny Waddell, NOAA National Ocean Service, 1305 East-West Highway, SSMC4, N/ORM, Silver Spring, MD 20910. All invited final applications should be submitted via *www.grants.gov* the Federal grants portal. If the applicant does not have Internet access, the applicant may submit by surface mail, one original and two signed copies of the Federal financial assistance forms along with the final application. Applicants should consider the delivery time when submitting their applications from international or remote areas. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Information Contacts:* The technical point of contact for State and Territory Coral Reef Monitoring is Jenny Waddell. She can be reached at 301–713–3155 extension 150 or by e-mail at *jenny.waddell@noaa.gov*.

*Eligibility:* Eligible applicants are limited to a natural resource management agency in each U.S. State or Territory, or an appropriate non-governmental agency in the case of the Freely Associated States, with jurisdiction over and an ability to monitor the condition of coral reefs, as designated by the respective governors or other applicable senior jurisdictional official. Applicants from the Freely Associated States must also provide a letter of support from their respective officially-designated coral reef point of contact to ensure that the proposed activities are coordinated with other ongoing coral reef conservation efforts.

NOAA is requesting proposals from Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands.

Federal agencies are not eligible for funding under this Program. Furthermore, to be eligible for FY 2010 funding, applicants previously receiving funds under this program must have made significant progress implementing those tasks and met data submission deadlines, including all performance and fiscal reporting requirements and data transfers.

*Cost Sharing Requirements:* As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects. Therefore, any coral conservation project under this program requires a 1:1 match. Federal funds from NOAA or other Federal agencies may not be considered as matching funds. Matching funds must be from non-Federal sources and can include in-kind contributions and other non-cash support.

NOAA strongly encourages applicants to leverage as much investment as possible. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: 1. No reasonable means are available through which an applicant can meet the matching requirement, and, 2. The probable benefit of such project outweighs the public interest in such matching requirement. Applicants must specify in their proposal the source and may be asked to provide letters of commitment to confirm stated match contributions. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Please Note: eligible applicants choosing to apply 48 U.S.C. 1469a(d) should note the use and amount in the matching funds section of the respective application.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

3. Coastal Hypoxia Research Program (CHRP)

*Summary Description:* The purpose of this document is to advise the public that NOAA is soliciting proposals for projects of 2 to 5 years in duration that advance understanding, prediction, and management of the causes and ecological and economic impacts of hypoxia in representative coastal ecosystems. Funding is contingent upon the availability of Fiscal Year 2010 Federal appropriations. It is anticipated that final recommendations for funding under this announcement will be made by early Calendar Year 2010, and that projects funded under this announcement will have an August 1, 2010 start date.

Background Information about the needs and priorities for research related to hypoxia in U.S. coastal waters is available in: 1. An Assessment of Coastal Hypoxia and Eutrophication in U.S. Waters (2003), Committee on Environment and Natural Resources. (Report prepared pursuant to Harmful Algal Bloom and Hypoxia Research and Control Act): *http://www.nccos.noaa.gov/publications/hypoxia.pdf*; 2. A Scientific Assessment of Hypoxia in US Coastal Waters (2009) (updated version of An Assessment of Coastal Hypoxia and Eutrophication in U.S. Waters), available soon at either *http://www.cop.noaa.gov/stressors/extremeevents/hab/habhrca/Report_Plans.html* or *http://ocean.ceq.gov/about/sup_jsost_iwgs.html*; 3. Effects of Nutrient Enrichment in the Nation's Estuaries: A Decade of Change (2007): *http://ccma.nos.noaa.gov/publications/eutroupdate/*. 4. Priority Topics for Nutrient Pollution in Coastal Waters: An Integrated National Research Program for the United States (2003), Howarth et al. NOAA/NCCOS, in cooperation with the National Science Foundation, United States Department of Agriculture

and United States Geological Survey: *http://www.nccos.noaa.gov/documents/nutrientpollution.pdf*; 5. Gulf of Mexico Alliance (GOMA) documents *http://www.gulfofmexicoalliance.org/*; and 6. CSCOR's CHRP Web site describing past and current projects and program priorities: *http://www.cop.noaa.gov/stressors/pollution/current/chrp.html*.

*Funding Availability:* Funding is contingent upon availability of Federal appropriations. NOAA is committed to continual improvement of the grants process and accelerating the award of financial assistance to qualified recipients in accordance with the recommendations of the Business Process Reengineering Team. In order to fulfill these responsibilities, this solicitation announces that award amounts will not exceed $350,000 per project per year with project durations from 2 to 5 years (except for the Gulf of Mexico projects which, given the timetable outlined in the GOMA framework described in the Governors' Action Plan (*http://www.gulfofmexicoalliance.org/*), should be completed in no more than 4 years). It is anticipated that 4 to 8 total projects will be funded, including 1 to 2 projects submitted under the Gulf of Mexico Regional Subcomponent and 3 to 6 projects from other regions. Proposals for the Gulf of Mexico Regional Subcomponent will be evaluated separately from other regions. Support in out years after FY 2010 is contingent upon the availability of funds. Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If one incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at ones own risk of these costs not being included under the award. Recipients and subrecipients are subject to all Federal laws and agency policies, regulations and procedures applicable to Federal financial assistance awards.

*Statutory Authority:* 33 U.S.C. 1442 and Public Law 105–383 title VI, Nov. 13, 1998, 112 Stat. 3447.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.478, Center for Sponsored Coastal Ocean Research—Coastal Ocean Program.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 3 p.m. ET, October 14, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov*, unless an applicant does not have Internet access. In that case, hard copies with original signatures may be sent to: Laura J. Golden, 1305 East West Hwy., Routing Code: N/SCI2, Building: SSMC4, Silver Spring, MD 20910–3278.

*Information Contacts*: Technical Information: Libby Jewett Program Manager, 301–713–3338 ext 121, Internet: *Libby.Jewett@noaa.gov*. Business Management Information: Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Internet: *Laurie.Golden@noaa.gov*.

*Eligibility:* Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations and Federal agencies that possess the statutory authority to receive financial assistance. Please note that: (1) NCCOS/CSCOR will not fund any Federal Full Time Employee (FTE) salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work. (2) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission. (3) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research. (4) NCCOS/CSCOR will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements. (5) Non-Federal researchers affiliated with NOAA–University Cooperative/Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

*Cost Sharing Requirements:* None Required.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

4. FY 2010 Bay Watershed Education and Training (B–WET) Hawaii Program

*Summary Description:* This federal funding opportunity meets NOAA's mission goals to: (1) Protect, restore and manage the use of coastal and ocean resources through ecosystems-based management, and (2) understand climate variability and change to enhance society's ability to plan and respond. The purpose for this financial assistance will support NOAA's goal by developing a well-informed citizenry involved in decision-making that positively impacts our coastal, marine and watershed ecosystems in the State of Hawaii.

This opportunity is a competitively-based grant that provides funding to assist in the development of new programs, encourage innovative partnerships among environmental education programs and support geographically targeted programs to advance environmental education efforts that complement national and state school requirements. The B–WET Hawaii Program is an environmental education program that promotes locally relevant, experiential learning in the K–12 environment on priority topics, such understanding climate change, earth sciences and community resilience to hazards. Funded projects provide meaningful watershed educational experiences for students, related professional development for teachers, and support regional education and environmental priorities.

*Funding Availability:* This solicitation announces that approximately $1,000,000 may be available in FY 2010 in award amounts to be determined by the proposals and available funds. The NOAA Pacific Services Center anticipates that approximately 5 to 15 grants will be awarded with these funds, pending availability of funds. Applicants are hereby given notice that funds have not yet been appropriated for this program. It is anticipated that typical project awards for NOAA Mission Goals 1 and 2 will range from approximately $10,000 to $100,000. Applications requesting Federal support from NOAA of more than $100,000 total will not be considered for review or funding. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be

awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government.

Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

*Statutory Authority:* 15 U.S.C. 1540; 33 U.S.C. 892a(a).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.473, Coastal Services Center.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5:59 p.m. Hawaii Time, August 31, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov*, unless an applicant does not have Internet access. In that case, application packages may be hand delivered or sent to: NOAA Pacific Services Center, 737 Bishop Street, Suite 1550, Honolulu, Hawaii 96813, ATTN: Stephanie Bennett. The postmark will be used to determine the timeliness of the proposal. Applicants submitting hard copy applications must submit one (1) hard copy of the entire application package, a CD copy of the package, including all forms with original signatures. No e-mail or fax copies will be accepted. Proposals received after the deadline will not be accepted.

*Information Contacts*: For administrative and technical questions, contact Stephanie Bennett, Federal Program Officer at NOAA Pacific Services Center, 737 Bishop Street, Suite 1550, Honolulu, Hawaii 96813 or by phone at (808) 522–7481, or via e-mail at *Stephanie.Bennett@noaa.gov*.

*Eligibility:* Eligible applicants are K–12 public and independent schools and school systems, institutions of higher education, commercial and nonprofit organizations, state or local government agencies, and Indian tribal governments. Individual applicants and Federal agencies are not eligible. Federal agencies are not allowed to receive funds under this announcement but may serve as collaborative project partners. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically Black Colleges and Universities, Hispanic-serving institutions, Tribal colleges and universities, Alaskan Native and Native Hawaiian institutions, and institutions that service undeserved areas.

*Cost Sharing Requirements:* No cost sharing is required under this program, however, the NOAA Pacific Services Center strongly encourages applicants to share as much of the costs of the award as possible. Funds from other Federal sources may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process with cash being the preferred method of contribution.

*Intergovernmental Review:* Funding applications under the Center are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. It is the state agency's responsibility to contact their state's Single Point of Contact (SPCO) to find out about and comply with the state's process under EO 12372. To assist the applicant, the names and addresses of the SPOCs are listed on the Office of Management and Budget's Web site *http://www.whitehouse.gov/omb/grants/spoc.html*.

5. FY 2010 California Bay Watershed Education and Training Program

*Summary Description:* The California B–WET grant program is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the San Francisco Bay, Monterey Bay, and Santa Barbara Channel watersheds. Projects support organizations that provide students ''meaningful'' watershed educational experiences and teachers professional development opportunities in the area of environmental education.

*Funding Availability:* This solicitation announces that approximately $2,000,000 may be available in FY 2010 in award amounts to be determined by the proposals and available funds. About $850,000 will be made available to the San Francisco Bay area, about $700,000 will be made available to the Monterey Bay area, and about $450,000 will be made available to the Santa Barbara area. The NOAA Office of National Marine Sanctuaries anticipates that approximately 35 grants will be awarded with these funds. The California B–WET Program should not be considered a long-term source of funds; applicants must demonstrate how ongoing programs, once initiated, will be sustained. The NOAA Office of National Marine Sanctuaries anticipates that typical project awards for Meaningful Watershed Experiences and Professional Development in the Area of Environmental Education for Teachers will range from $30,000 to $60,000. Proposals will be considered for funds greater than the specified ranges if there is sufficient demonstration that the project requires additional funds and/or if the proposal includes multiple partners. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

*Statutory Authority:* Under 33 U.S.C 893a(a), the Administrator of the National Oceanic and Atmospheric Administration is authorized to conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.429, Marine Sanctuary Program.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to

a delivery service on or before 5 p.m. PDT, October 8, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be received and validated by Grants.gov. For applicants without Internet service applications should be sent to: Seaberry Nachbar, Monterey Bay National Marine Sanctuary office; 299 Foam Street, Monterey, CA 93940.

*Information Contacts:* Please visit the National Marine Sanctuaries CA B–WET Web site at: *http://sanctuaries.noaa.gov/news/bwet/welcome.html* or contact Seaberry Nachbar, Monterey Bay National Marine Sanctuary office; 299 Foam Street, Monterey, CA 93940, or by phone at 831–647–4201, or fax to 831–647–4250, or via Internet at *seaberry.nachbar@noaa.gov.*

*Eligibility:* Eligible applicants are K-through-12 public and independent schools and school systems, institutions of higher education, nonprofit organizations, state or local government agencies, and Indian tribal governments. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic Serving institutions, tribal colleges and universities, and institutions that service undeserved areas.

The NOAA Office of National Marine Sanctuaries encourages proposals involving any of the above institutions.

*Cost Sharing Requirements:* No cost sharing is required under this program; however, the NOAA Office of National Marine Sanctuaries strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible.

Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process with cash being the preferred method of contribution.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

6. Harmful Algal Blooms Program

*Summary Description:* The purpose of this document is to advise the public that NOAA is soliciting proposals for the interagency Ecology and Oceanography of Harmful Algal Blooms Program (ECOHAB), the NOAA Monitoring and Event Response for Harmful Algal Blooms Program (MERHAB), and the NOAA Prevention, Control, and Mitigation of Harmful Algal Blooms Program (PCMHAB).

ECOHAB Objectives

ECOHAB aims to develop quantitative understanding of HABs and, where applicable, their toxins in relation to the surrounding environment with the intent of providing new information and tools, predictive models and forecasts, and prevention strategies and to develop models of trophic transfer of toxins, knowledge of biosynthesis and metabolism of toxins, and assessment of impacts of toxins on higher trophic levels. Information in these areas, in turn, supports a critical goal of the ECOHAB program, the development of reliable models to forecast bloom development, persistence, toxicity, and impacts. Research results will be used directly to guide management of coastal resources to reduce HAB development, impacts, and future threats and will feed into other HAB programs for development of tools to improve HAB management and response.

MERHAB Objectives

The principal objective of MERHAB is to build capacity of local, state, and tribal governments, and the private sector, for less costly and more precise and comprehensive monitoring of HAB cells and toxins, and for responding to HAB events. With these advances, State programs will be better able to take preventative actions (e.g. increase monitoring efforts, close shellfish beds, warn affected communities) to safeguard the public health, local economies, and fisheries. Further advancements will assist the wildlife health communities respond to HAB-related mortalities. As a result of the MERHAB Program, managers will be able to mitigate the expanding HAB problems in their coastal regions and be better positioned, especially during difficult state fiscal climates, to request long-term support from local, state, regional or Federal funding sources.

PCMHAB Objectives

The PCM HAB program will transition promising technologies and strategies for preventing, controlling, or mitigating HABs and their impacts from development through demonstration and technology transfer for field application by end-users. The technologies will arise from HAB research conducted by the two existing national HAB programs, ECOHAB and MERHAB, or other research programs which conduct some HAB research. The purpose is to develop new tools to improve HAB management and response.

*Funding Availability:* Funding is contingent upon availability of Federal appropriations. NOAA is committed to continual improvement of the grants process and accelerating the award of financial assistance to qualified recipients in accordance with the recommendations of the Business Process Reengineering Team. In order to fulfill these responsibilities, this solicitation announces that award amounts will be determined by the proposals and available funds. The following program-specific guidelines for budget requests are provided. (1) ECOHAB Targeted: $100,000–$250,000/yr not including ship time (2) MERHAB Targeted: $100,000–$250,000/yr not including ship time (3) ECOHAB Regional: $1,000,000/yr, not including ship time (4) MERHAB Regional: $600,000/yr, not including ship time (5) PCM HAB: $100,000–$600,000/yr, not including ship time. Budget requests that exceed the guidelines will need to be specifically justified. Project periods may be modified after review due to the availability of Federal appropriations. It is anticipated that 1–3 regional-scale ECOHAB or MERHAB projects and 4–15 targeted ECOHAB, targeted MERHAB or PCM HAB projects will be funded. Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. There is no guarantee that sufficient funds will be available to make awards for all qualified projects.

Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If one incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at ones own risk of these costs not being included under the award. Publication of this notice does not obligate any agency to any specific award or to obligate any part of the entire amount of funds available. Project periods may be modified after review due to the availability of federal appropriations.

Recipients and subrecipients are subject to all Federal laws and agency

policies, regulations and procedures applicable to Federal financial assistance awards.

*Statutory Authority:* ECOHAB: 16 U.S.C. 1456C; 33 U.S.C. 883d; 33 U.S.C. 1442; 15 U.S.C. 1540; Pub. L. 105–383, as amended by Pub. L. 108–456. MERHAB HAB: 16 U.S.C. 1456C; 33 U.S.C. 883d; 33 U.S.C. 1442; 15 U.S.C. 1540; Pub. L. 105–383, as amended by Pub. L. 108–456. PCM HAB: 16 U.S.C. 1456C; 33 U.S.C. 883d; 33 U.S.C. 1442; 15 U.S.C. 1540; Pub. L. 105–383, as amended by Pub. L. 108–456.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.478, Center for Sponsored Coastal Ocean Research—Coastal Ocean Program.

*Application Deadline:* Applications must be received and validated by Grants.gov on or before 3 p.m. ET on October 14, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Letters of Intent (LOI) for all Competitions, although not required, should be received by 5 p.m. Eastern Time, August 17, 2009.

*Address for Submitting Proposals:* LOIs should be submitted by e-mail to the identified NOAA Program Manager listed in the Agency Contact section. If an applicant does not have Internet access, LOI hard copies may be sent to the Program Managers. Hard copies LOIs should be sent to NOAA Center for Sponsored Coastal Ocean Research, 1305 East-West Highway, SSMC4, Mail Station 8218, 8th floor, Silver Spring, MD 20910 or faxed to 301–713–04044. Please allow two weeks after receipt for a response.

Applications must be received and validated by Grants.gov. For applicants without Internet service applications should be sent to: NOAA Center for Sponsored Coastal Ocean Research, 1305 East-West Highway, SSMC4, Mail Station 8218, 8th floor, Silver Spring, MD 20910.

*Information Contacts:* Technical Information—ECOHAB: Quay Dortch, ECOHAB Coordinator, 301/713–3338 ext 157, *Quay.Dortch@noaa.gov*. MERHAB: Marc Suddleson, MERHAB Program Manager, 301/713–3338 ext 162, *Marc.Suddleson@noaa.gov*. PCM: Quay Dortch, Acting PCM Program Manager, 301/713–3338 ext 157, *Quay.Dortch@noaa.gov*. Business Management Information: Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Internet: *Laurie.Golden@noaa.gov*.

*Eligibility:* Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations, and Federal agencies that possess the statutory authority to receive financial assistance. Please note that: (1) NCCOS/CSCOR will not fund any Federal Full Time Employee (FTE) salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work. (2) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission. (3) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research. (4) NCCOS/CSCOR will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements. (5) Non-Federal researchers affiliated with NOAA-University Cooperative/Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

*Cost Sharing Requirements:* None required.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

7. NOAA International Coral Reef Grant Program

*Summary Description:* The NOAA Coral Reef Conservation Grant Program, as authorized under the Coral Reef Conservation Act of 2000, provides matching grants of financial assistance for international coral reef conservation projects. The Program solicits proposals under three funding categories: (1) Support Planning for Effective Marine Protected Area Management; (2) Encourage the Development of National Networks of Marine Protected Areas in the Wider Caribbean, Bermuda, Brazil, Southeast Asia, and the South Pacific; and (3) Promote Regional Socio-Economic Training and Monitoring in Coral Reef Management in the Wider Caribbean, Brazil, Bermuda, the Western Indian Ocean, the Red Sea, the South Pacific, South Asia, and Southeast Asia. Each funding category has specific applicant and project eligibility criteria.

*Funding Availability:* NOAA announces the availability of up to $1,000,000 in FY 2010 to support grants and cooperative agreements under the NOAA International Coral Reef Grant Program. These funds will be used to support financial assistance awards under the program categories listed in section I.B. Program Priorities and III.C. Other Criteria that Affect Eligibility (found in the Full Funding Opportunity announcement). Applicants that are invited to submit a final application may be requested to revise award objectives, work plans, or budgets prior to submittal of the final application.

The amount of funds to be awarded and the final scope of activities will be determined in pre-award negotiations among the applicant, NOAA Grants Management Division (GMD) and relevant NOAA staff. Up to approximately $1,000,000 may be available in FY 2010 to support grants and cooperative agreements under this program. Approximately $75,000–$100,000 may be allocated to each of the four project categories listed below, with the following award ranges: 1. Planning for Effective Marine Protected Area Management: Single sites: up to $50,000; Multiple sites: up to $80,000 2. MPA National Networks: $40,000–$50,000 3. Regional Socio-Economic Monitoring projects: $20,000–$40,000 Pre- and final applications with requests over the limit of each category will NOT be accepted.

Pre-applications and final applications must be submitted under only one of the above mentioned categories. Funding will be subject to the availability of federal appropriations. Applicants should never begin a project in expectation of funds under this program. The International Program Office reserves the right to transfer any given proposal to another category within the International program if the proposal better addresses the criteria of another category.

*Statutory Authority:* Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.463, Habitat Conservation.

*Application Deadline:* Pre-applications must be received by NOAA by 5 p.m., ET, on Monday, November 9, 2009. Final applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. ET, February 17, 2010. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business

days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Pre-applications may be submitted by surface mail or e-mail by 5 p.m., ET, November 9, 2009. Submissions by e-mail are preferred to *coral.grants@noaa.gov*. Acceptable electronic formats for narratives, attachments, and images are limited to Adobe Acrobat (.PDF), or Microsoft Word files. If submitting by surface mail, please include an electronic copy of the pre-application on CD. Federal financial assistance forms are not required to be submitted with the pre-application. If surface mail is selected, paper pre-applications must be submitted to: Scot Frew, NOAA/NOS International Program Office, 1315 East West Highway, 5th Floor, N/IP, Room 5735, Silver Spring, MD 20910. Fax submittals will also be accepted for pre-applications only (*Fax:* 301–713–4263). Please note that late pre-applications cannot be considered under any circumstances including e-mail transmission malfunctions. Electronic files of pre-applications must arrive without viruses. If attachments cannot be opened due to a virus or they arrive with a virus, the pre-applications will be disqualified. You may call us at 301–713–3078 x218 before the deadline to ensure that your pre-application arrived.

Final applications will be accepted only from those applicants who are invited to submit a final application. Applicants may be required to make modifications or revisions to the project and budget narratives and must submit these narratives with a Federal financial assistance award application package (federal forms described below). Only applicants who submitted pre-applications by the deadline will be eligible to be considered for invitations to submit a final application by 5 p.m., ET, on February 17, 2010. The applicant may submit the final application (narratives, federal forms, and supporting documentation) in one of two ways: Applications must be submitted through *www.grants.gov*, unless an applicant does not have Internet access. In that case, hard copies with original signatures and scanned copies on a CD may be sent to: Scot Frew, NOAA/NOS International Program Office, 1315 East West Highway, 5th Floor, N/IP, Room 5735, Silver Spring, MD 20910. Applicants should consider the delivery time when submitting their pre- and final applications from international or remote areas. Late applications by any method cannot be accepted under any circumstances.

*Information Contacts:* Technical point of contact for International Coral Reef Conservation is Scot Frew, NOAA/NOS International Program Office, 301–713–3078, extension 220 or e-mail at *scot.frew@noaa.gov*.

*Eligibility:* Eligible applicants include institutions of higher education, U.S. and international non-profit organizations, and commercial organizations. U.S. federal agencies and individuals are not eligible. For specific country eligibility per category, please refer to individual category descriptions in Section V of the Federal Funding Opportunity. The proposed work must be conducted at a non-U.S. site. Eligible countries are defined as follows: The Wider Caribbean includes the 37 States and territories that border the marine environment of the Gulf of Mexico, the Caribbean Sea, and the areas of the Atlantic Ocean adjacent thereto, and Brazil and Bermuda, but excluding areas under U.S. jurisdiction. The South Pacific Region includes South Pacific Regional Environment Program's Pacific island countries and territories, including the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands, but excluding U.S. territories and four developed country members and their territories or protectorates. South Asia includes India, Sri Lanka, the Maldives, Pakistan, and Bangladesh. Southeast Asia Region includes Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Timor-Leste, and Vietnam. The Western Indian Ocean Region includes Comoros, France (La Reunion), Kenya, Madagascar, Mauritius, Mozambique, Seychelles, the United Republic of Tanzania, and South Africa.

The Red Sea Region includes five member countries of the Regional Organization for the Conservation of the Environment of the Red Sea and Gulf of Aden (PERSGA): Djibouti, Egypt, Jordan, the Kingdom of Saudi Arabia, and Yemen.

*Cost Sharing Requirements:* The NOAA International Coral Reef Grant Program is subject to the matching fund requirements described below. As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects. Therefore, any coral conservation project under this program requires a 1:1 match. Match can come from a variety of public and private sources and can include in-kind goods and services such as private boat use and volunteer labor. Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are permitted to combine contributions from multiple non-federal partners in order to meet the 1:1 match recommendation, as long as such contributions are not being used to match any other funds.

Applicants must specify in their proposal the source(s) of match and may be asked to provide letters of commitment to confirm stated match contributions. Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Applicants should be prepared to carefully document matching contributions for each project selected to be funded. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: 1. No reasonable means are available through which an applicant can meet the matching requirement, and, 2. The probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Match waiver requests including the appropriate justification should be submitted as part of the final application package. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 including in-kind contribution to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. **Please Note:** eligible applicants choosing to apply 48 U.S.C. 1469a(d) should note the use of the waiver and the total amount of funds requested to be waived in the matching

funds section of the respective pre- and final applications.

*Intergovernmental Review:* Applications under the NOAA International Coral Reef Grant program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

8. NOAA Pacific Northwest Bay Watershed Education and Training (B–WET) Program

*Summary Description:* NOAA B–WET is an environmental education program that promotes locally relevant, experiential learning in the K–12 environment. Funded projects provide meaningful watershed educational experiences for students, related professional development for teachers, and helps to support regional education and environmental priorities in the Pacific Northwest.

*Funding Availability:* It is anticipated that approximately $700,000 will be available in FY2010 for all Pacific Northwest projects, including projects awarded in 2008 and 2009, which were multi-year awards. NOAA anticipates making approximately five new awards during FY 2010. NOAA will consider only projects with a duration of one year. The total Federal amount that may be requested from NOAA shall not exceed $60,000 per year. The minimum Federal amount that must be requested from NOAA for all years is $25,000. Applications requesting Federal support from NOAA of less than $25,000 total or more than $60,000 per year will not be considered for funding. Proposals may be considered eligible for renewal beyond the first project period. However, funds will be made available for only a 12–month award period and any renewal of the award period will depend on submission of a successful proposal subject to panel reviews, adequate progress on previous award(s), and available funding to renew the award. No assurance for funding renewal exists; funding will be at the complete discretion of NOAA. Projects that plan on renewal must include in their first-year submission a full description of the activities and budget for the first year as described in this announcement, and a summary description of the proposed work and estimated budget for each subsequent year. If selected for funding, the applicant will be required to submit a full proposal each subsequent year by the deadline announced in the following competitive cycle. In addition to the requirements for new proposals, renewed projects should include the accomplishments to date on the previous year's grant in their subsequent grant submissions. No proposal will be considered for renewal more than two times. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government.

Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

*Statutory Authority:* Under 33 U.S.C. 893 a(a), the Administrator of the National Oceanic and Atmospheric Administration is authorized to conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.429, Marine Sanctuary Program.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. PDT, October 8, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No e-mail and/or facsimile pre-proposals and/or full applications will be accepted. Applications that are late or are received by fax or e-mail will not be considered for review. Applications submitted through Grants.gov will be accompanied by an automated receipt of the date and time of submission. Hard copy applications will be hand stamped with time and date when received in the Office of Education. (Note that late-arriving hard copy applications provided to a delivery service on or before 5 p.m., PDT, October 8, 2009 will be accepted for review if the applicant can document that the application was provided to the guaranteed delivery service by the specified closing date and time, and if the application is received before 5 p.m., PDT, no later than two business days following the closing date. Applicants are recommended to send hard copies via expedited shipping methods (e.g., Airborne Express, DHL, FedEx, UPS, etc.).

*Address for Submitting Proposals:* Applications must be received and validated by Grants.gov. For applicants without Internet access applications should be sent to Robert Steelquist, NOAA B–WET PNW Manager, 115 E. Railroad Ave., Suite 301, Port Angeles, WA, 98362.

*Information Contacts:* For the Pacific Northwest, please contact Robert Steelquist, NOAA B–WET PNW Manager, 115 E. Railroad Ave., Suite 301, Port Angeles, WA, 98362; 360/457–6622 ext.19 or by e-mail at: *Robert.steelquist@noaa.gov*.

*Eligibility:* Eligible applicants are K–12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that service underserved areas.

While applicants do not need to be from the targeted geographical regions specified in the program objectives, they must be working with target audiences in these areas.

*Cost Sharing Requirements:* No cost sharing is required under this program, however, the NOAA B–WET Program strongly encourages applicants include a 25% or higher match. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash vs. in-kind) and the amount of matching funds will be taken into consideration during the review process. Priority selection is given to proposals that propose cash rather than in-kind services.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

9. National Estuarine Research Reserve Graduate Research Fellowship Program FY 2010

*Summary Description:* The National Estuarine Research Reserve System (NERRS) consists of estuarine areas of the United States and its territories which are designated and managed for research and educational purposes. Each reserve within the system is chosen to reflect regional differences and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR Part 921. Each reserve supports a wide range of beneficial uses of ecological, economic, recreational, and aesthetic values which are dependent upon the maintenance of a healthy ecosystem. The sites provide habitats for a wide range of ecologically and commercially important species of fish, shellfish, birds, and other aquatic and terrestrial wildlife. Each reserve has been designed to ensure its effectiveness as a conservation unit and as a site for long-term research and monitoring. As part of a national system, the reserves collectively provide an excellent opportunity to address research questions and estuarine management issues of national significance. For detailed descriptions of the sites, refer to the NERR Web site at *http://www.nerrs.noaa.gov*.

*Funding Availability:* The National Estuarine Research Reserve System of NOAA announces the availability of Graduate Research Fellowships. Based on funds available, the Estuarine Reserves Division anticipates that up to 22 Graduate Research Fellowships will be competitively awarded to provide funding to qualified graduate students whose research occurs within the boundaries of at least one National Estuarine Research Reserve. Minority students are encouraged to apply. The amount of the fellowship is $20,000; at least 30% of total project cost match is required by the student's institution. To illustrate, the total project cost for a one year Graduate Research Fellowship is $28,572. Twenty-thousand of this amount is supplied by the federal government with a minimum 30% non-federal match in the amount of $8,572 supplied by the student's eligible institution for a total 1 year project cost of $28,572.

*Statutory Authority:* Section 315 of the Coastal Zone Management Act of 1972, as amended CZMA, 16 U.S.C. 1461, establishes the National Estuarine Research Reserve System (NERRS). Section 1461 (e)(1)(B) authorizes the Secretary of Commerce to make grants to any coastal state or public or private person for purposes of supporting research and monitoring within a National Estuarine Research Reserve that are consistent with the research guidelines developed under subsection (c).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.420, Coastal Zone Management Estuarine Research Reserves.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11 p.m. ET, November 2, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications submitted in response to this announcement are strongly encouraged to be submitted through the *www.grants.gov* Web site no later than November 2, 2009 at 11 p.m. ET. Electronic access to the full funding announcement for this program is available via the *www.grants.gov* Web site. The announcement will also be available by contacting Alison Krepp with the Estuarine Reserves Division at *Alison.Krepp@noaa.gov* or 301–713–3155 x 105. Applicants who do not have Internet access may submit a paper application (one signed original and two copies) to the Estuarine Reserves Division at the following address, postmarked by November 2, 2009: Attn: Alison Krepp, NOAA/Estuarine Reserves Division, 1305 East West Highway, Room 10503, Silver Spring, Maryland 20910.

*Information Contacts:* For questions regarding the program and application process, please contact Alison Krepp (301–713–3155 ext. 105) at NOAA/Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, SSMC4, Station 10503, Silver Spring, MD 20910 or via e-mail at *Alison.Krepp@noaa.gov*, or fax at 301–713–4012. The program Web site can be accessed at *http://www.nerrs.noaa.gov/fellowship*. If the Web page does not provide sufficient information and Alison Krepp is unavailable, please contact Erica Seiden at (301) 713–3155 ext. 172 or *Erica.Seiden@noaa.gov*.

*Eligibility:* Awards are normally made to the fellow's graduate institution through the use of a grant. Therefore, students must work with their institution's authorized representatives to complete the following required standard federal forms: SF 424, CD–511, and SF 424B. Institutions eligible to receive awards include institutions of higher education, other non-profits, state and local governments. All reserve staff are ineligible to submit an application for a fellowship under this announcement. Funds are expected to be available on a competitive basis to qualified graduate students for research within a reserve(s) leading to a graduate degree. Students must be admitted to or enrolled in a full-time master's or doctoral program at a U.S. accredited university in order to be eligible to apply. Students should have completed a majority of their graduate course work at the beginning of their fellowship and have an approved thesis research program. Minority students are encouraged to apply.

*Cost Sharing Requirements:* Requested federal funds must be matched by at least 30 percent of the TOTAL cost, not the federal share, of the project. To illustrate, the total project cost for a one year Graduate Research Fellowship is $28,572. Twenty-thousand of this funding is supplied by the federal government with a minimum 30% non-federal match for the total project cost ($28,572) in the amount of $8,572 is supplied by the student's eligible applicant institution. Requested overhead costs under fellowship awards are limited to 10% of the federal amount and institutional fees that do not qualify as direct costs under fellowship awards are limited to 10% of the federal amount as well. Waived overhead costs may be used as match.

*Intergovernmental Review:* Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants should contact their State Single Point of Contact (SPOC) to find out about and comply with the State's process under EO12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's Web site at *http://www.whitehouse.gov/omb/grants/spoc.html*.

10. National Estuarine Research Reserve System (NERRS) Land Acquisition and Construction Program FY 2010

*Summary Description:* The National Estuarine Research Reserve System consists of estuarine areas of the United States and its territories which are designated and managed for research and educational purposes. Each reserve

within the system is chosen to represent different bio-geographic regions and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR Part 921.

Through the funding of designated reserve agencies and universities to undertake land acquisition and construction projects that support the NERRS purpose, NOAA will strengthen protection of key land and water areas; enhance long-term protection of the area for research and education; and provide for facility and exhibit construction and enhancement.

*Funding Availability:* This funding opportunity announces that approximately $3.89 million may be available to designated reserve agencies or universities only through this announcement for fiscal year 2010. Awards will be issued as competitive grants. It is anticipated that the awards generally will run for up to two years. In the past, funding for land acquisition/construction awards has ranged in amount from approximately $50,000 to $3 million.

*Statutory Authority:* Authority for the NERR program is provided by 16 U.S.C. 1461(e)(1)(A)(i), (ii), and (iii).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.420, Coastal Zone Management Estuarine Research Reserves.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. ET, November 30, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications submitted in response to this announcement are strongly encouraged to be submitted through the *www.grants.gov* Web site no later than November 30, 2009 at 11:59 ET. Electronic access to the full funding announcement for this program is available via the *www.grants.gov* Web site. The announcement will also be available by contacting Nina Garfield with the Estuarine Reserves Division at *nina.garfield@noaa.gov* or 301–713–3155 x 171. Applicants who do not have Internet access may submit a paper application (one signed original and two copies) to the Estuarine Reserves Division at the following address postmarked by November 2, 2009: Attn: Nina Garfield, NOAA/Estuarine Reserves Division, 1305 East West Highway, Room 10503, Silver Spring, Maryland 20910.

*Information Contacts:* Administrative and Technical questions regarding the program and application process, please contact Nina Garfield, program coordinator, at NOAA/Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, SSMC4, Station 10500, Silver Spring, MD 20910 or via phone: 301–713–3155 ext. 171, e-mail: *nina.garfield@noaa.gov*, or fax: 301–713–4012. The program Web site can be accessed at *http://coastalmanagement.noaa.gov/programs/nerr.html*. Other questions should be directed to Nina Garfield at 301–713–3155, extension 171, *nina.garfield@noaa.gov* or Laurie McGilvray at (301) 713–3155 ext. 158, *laurie.mcgilvray@noaa.gov*.

*Eligibility:* Eligible applicants are National Estuarine Research Reserve lead state agencies or universities in coastal states. Eligible applicants should have completed all requirements as stated in the NERRS regulations at Title 15, Part 921 of the Code of Federal Regulations (15 CFR part 921) *http://nerrs.noaa.gov/Background_Regulations.html*.

*Cost Sharing Requirements:* The amount of federal funds requested must be matched by the applicant: 30 percent of total project cost for construction awards and 50 percent of total project cost for land acquisition awards. Cash or in-kind contributions directly benefiting the project may be used to satisfy the matching requirements. If using Reserve land acquisition banked match, a list of the banked match must be included with the application. Applicants must identify all match sources and amounts equal to that requested above.

*Intergovernmental Review:* Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants should contact their State Single Point of Contact (SPOC) to find out about and comply with the States process under EO12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's Web site at *http://www.whitehouse.gov/omb/grants/spoc.html*.

11. Sea Level Rise (SLR)

*Summary Description:* The purpose of this document is to advise the public that NOAA is soliciting research proposals for projects of 3 to 5 years in duration for development of modeling and mapping tools to better understand and predict the impacts of sea level rise on coastal ecosystems, including ecologically and economically valuable natural resources, to support proactive coastal management and mitigation decisions. The area of interest includes the coastal ecosystems in the northern Gulf of Mexico, ranging from the eastern boundary of the Apalachicola National Estuarine Research Reserve to the western extent of the Mississippi coast. Projects should be interdisciplinary, multiple investigator, and well integrated studies designed to develop capabilities for understanding, predicting, and mitigating the effects of long term sea level rise. Funding is contingent upon the availability of Fiscal Year 2010 Federal appropriations. It is anticipated that final recommendations for funding under this announcement will be made in early calendar year 2010, and that projects funded under this announcement will have a July 2010, start date. Electronic Access: Background information about NOAA's efforts in the Ecological Effects of Sea Level Rise Program can be found at *http://www.cop.noaa.gov/stressors/climatechange/welcome.html*.

*Funding Availability:* Funding is contingent upon availability of Federal appropriations. NOAA is committed to continual improvement of the grants process and accelerating the award of financial assistance to qualified recipients in accordance with the recommendations of the Business Process Reengineering Team. In order to fulfill these responsibilities, this solicitation announces that award amounts will be determined by the proposals and available funds. Award amount will not exceed $1 million per project per year with project durations of three to five years; total project funding will not exceed $3 million.

It is anticipated that 1 award will be funded through this solicitation. Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. There is no guarantee that sufficient funds will be available to make awards for all qualified projects.

Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If one incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at one's own risk of these costs not being included under the

award. Publication of this notice does not obligate any agency to any specific award or to obligate any part of the entire amount of funds available. Recipients and subrecipients are subject to all Federal laws and agency policies, regulations and procedures applicable to Federal financial assistance awards.

*Statutory Authority:* 16 U.S.C. 1456c.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.478, Center for Sponsored Coastal Ocean Research—Coastal Ocean Program.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 3 p.m. ET, October 14, 2009. **Please note:** validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov*, unless an applicant does not have Internet access. In that case, hard copies with original signatures may be sent to: Laura J. Golden, 1305 East-West Hwy., Routing Code: N/SCI2, Building: SSMC4, Silver Spring, MD 20910–3278.

*Information Contacts*: Technical Information: Carol Auer, Program Manager, 301–713–3338/ext 164, Internet: *Carol.Auer@noaa.gov.* Business Management Information: Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Internet: *Laurie.Golden@noaa.gov.*

*Eligibility:* Eligible applicants are institutions of higher education, other non-profits, state, local, Indian Tribal Governments, commercial organizations and Federal agencies that possess the statutory authority to receive financial assistance. Please note that: (1) NOAA will not fund any Federal Full Time Employee (FTE) salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work. (2) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission. (3) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research. (4) NOAA will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements. (5) Non-Federal researchers affiliated with NOAA–University Cooperative/Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institution or to joint institutes.

*Cost Sharing Requirements:* The applicant is responsible for identifying a funding source for the annual Managers' Workshops to support 100% of the costs after Year 1.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

12. 2010 Integrated Ocean Observing System Implementation

*Summary Description:* The Integrated Ocean Observing System (IOOS) is working to link national and regional observations, data management, and modeling to provide required data and information on local to global scales. IOOS Regional Coastal Ocean Observing Systems (RCOOS) complement the observing systems managed directly by federal agencies to meet national priorities. With the guidance of Regional Associations to understand regional priorities, RCOOS provide the data, information, and products needed to address estuarine and coastal issues of importance to the nation's ocean and coastal regions and the Great Lakes. NOAA views this announcement as an opportunity to enhance the regional coastal component of IOOS. In addition, NOAA views the testing and development of sensor technologies to study and monitor coastal and ocean environments as essential to a sustained and operational IOOS. Thus, this announcement includes two focus areas for proposals: (1) Regional Coastal Ocean Observing Systems by Geography and (2) Verification and validation of sensors for coastal and ocean observing systems. The program priorities for this funding opportunity support NOAA's mission goals to: Serve society's needs for weather and water information; Protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management; Understand climate variability and change to enhance society's ability to plan and respond; and Support the Nation's commerce with information for safe, efficient, and environmentally sound transportation. For focus area one, NOAA seeks proposals for one-year cooperative agreements to continue the implementation and development of the regional component of IOOS within the following regions of the United States: Northeast (Maine to Rhode Island), Mid-Atlantic (Cape Cod to Cape Hatteras), Southern California (Point Conception to the Mexico border), Pacific Northwest (Washington, Oregon, and northern California), and Pacific Islands (Hawaii).

Proposed projects must build upon the progress already made by IOOS Regional Associations. It is expected that these efforts will result in a regional system that is optimized to provide data and products that meet regional needs and national IOOS specifications, and that are available in forms and at rates designed to meet the needs of regional decision makers. To accomplish that task, the regional systems will integrate existing observing system components, and construct products and data management processes to deliver data and information to the regional stakeholders for the benefit of the region. Proposals should demonstrate the approach and benefits of integration and implementation at the scale of the Regional Association (not sub-regional) and should address the following: (a) Regional deployment, operation and maintenance of sensors and platforms to address needs for data and information that have been clearly articulated by the IOOS Regional Associations as representative of their stakeholders. (b) Regional participation in developing a standards-based data integration framework (DIF) for data streams, quality assurance procedures, and data delivery. (c) Generation of regional or appropriately-scaled products, including data and model output, and improved interoperability of these outputs based on emerging standards and protocols, to facilitate the development of value-added, targeted products for identified users. For focus area two, NOAA seeks proposals that will provide information useful for selecting the most appropriate sensor technologies to study and monitor ocean and coastal environments, and to test, validate, and verify such technologies. NOAA anticipates making six (6) total awards in response to this announcement, five (5) awards in focus area one and one (1) award in focus area two.

*Funding Availability:* Total anticipated funding for all awards is subject to the availability of appropriations. The anticipated federal funding per award (min-max) is approximately $500,000 to $3,000,000 per year. The anticipated number of awards ranges from five (5) to six (6),

approximately, and will be adjusted based on available funding.

*Statutory Authority:* Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance); 33 U.S.C. 883d; and 33 U.S.C. 1442 (Research program investigating possible long-range effects of pollution, overfishing, and anthropogenically-induced changes of ocean ecosystems).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.473, Coastal Services Center.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EDT, October 30, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* All proposal package materials, including any letters of support, must be submitted through Grants.gov. Applicants without Internet access may submit proposals by surface mail to Gabrielle Canonico, NOAA IOOS, 1100 Wayne Avenue, Suite 1225, Silver Spring, Maryland 20910. No e-mail or fax copies will be accepted. Please be advised that potential funding applicants must register with Grants.gov before any application materials can be submitted. An organization's one-time registration process may take up to three weeks to complete, so please allow sufficient time to ensure applications are submitted before the closing date. The Grants.gov site contains directions for submitting an application, the application package (forms), and is also where the completed application is submitted. Applicants using Grants.gov must locate the downloadable application package for this solicitation by the Funding Opportunity Number or the CFDA number (11.473). Applicants will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site. Grants.gov will provide information about submitting a proposal through the site as well as the hours of operation. After electronic submission of the application, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system prior to transmission to the grantor agency or has been rejected due to errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the federal agency. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number and be registered in the Central Contractor Registry (CCR). Allow a minimum of five days to complete the CCR registration. (Note: Your organization's Employer Identification Number (EIN) will be needed on the application form.)

*Information Contacts*: For questions regarding this announcement, contact: Gabrielle Canonico, NOAA IOOS; 1100 Wayne Avenue, Suite 1225, Silver Spring, Maryland 20910; or by phone at 301–427–2428, fax at 301–427–2073, or e-mail at *Gabrielle.Canonico@noaa.gov.*

*Eligibility:* Eligible applicants are institutions of higher education, non-profit and for-profit organizations, and state, local and Indian tribal governments. Federal agencies or institutions and foreign governments may not be the primary recipient of awards under this announcement, but are encouraged to partner with applicants when appropriate. If requesting funds under this award, federal partners must identify the relevant statutory authorities that will allow for the receipt of funds. If a federal partner is a NOAA office, the funds will be transferred internally. If the Federal partner is an agency other than NOAA, they must demonstrate that they have legal authority to accept funds in excess of their appropriation. Because they would be receiving funds from a non-Federal source, the Economy Act (31 U.S.C 1535) would not be an appropriate authority.

*Cost Sharing Requirements:* There is no requirement for cost sharing. NOAA appreciates that IOOS Regional Associations are seeking additional support (in-kind or cash) to support development of regional observing systems under the umbrella of IOOS. While a cost share of funding is not required, applicants are encouraged to provide a description of complementary funding and in-kind contributions from project partners.

*Intergovernmental Review:* Applications under the Center are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' It is the state agency's responsibility to contact their state's Single Point of Contact (SPOC) to find out about and comply with the state's process under EO 12372. To assist the applicant, the names and addresses of the SPOCs are listed on the Office of Management and Budget's Web site *http://www.whitehouse.gov/omb/grants/spoc.html.*

13. NOAA's National Height Modernization Program

*Summary Description:* NOAA's National Height Modernization Program did not receive Congressional Appropriations to fund Fiscal Year 2009 grants applications. NOAA's Geodetic Survey office will be holding all proposals received in response to the Fiscal Year 2009 solicitation and use those applications for Fiscal Year 2010 funding. Funding of these applications are still contingent on the availability of funds in Fiscal Year 2010. For administrative questions please contact Sonita Tiwari, NOAA NOS, SSMC3; 1315 East-West Highway, Silver Spring MD, 20910, Phone 301–713–3231X115 or E-mail *sonita.tiwari@noaa.gov.*

*National Weather Service (NWS)*

1. Collaborative Science, Technology, and Applied Research (CSTAR) Program

*Summary Description:* The CSTAR Program represents an NOAA/NWS effort to create a cost-effective transition from basic and applied research to operations and services through collaborative research between operational forecasters and academic institutions that have expertise in the environmental sciences. These activities will engage researchers and students in applied research of interest to the operational meteorological community and will improve the accuracy of forecasts and warnings of environmental hazards by applying scientific knowledge and information to operational products and services. The NOAA CSTAR Program is a contributing element of the U.S. Weather Research Program (USWRP).

NOAA's program is designed to complement other agency contributions to that national effort. The CSTAR Program addresses NOAA's Mission Goal 3, Serve society's needs for weather and water information.

*Funding Availability:* The total funding amount available for proposals is anticipated to be approximately $750,000. However, there is no appropriation of funds at this time and no guarantee that there will be. Individual annual awards in the form of

cooperative agreements are limited to a maximum of $125,000 per year for no more than three years. We anticipate making 4–6 awards.

*Statutory Authority:* Authority for the CSTAR program is provided by the following: 15 U.S.C. 313; 49 U.S.C. 44720(b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2934.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.468, Applied Meteorological Research.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EDT, October 16, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications should be submitted through *www.grants.gov.* For those organizations without Internet access, applications may be sent to Sam Contorno, CSTAR Program Manager, NOAA/NWS, 1325 East-West Highway, Room 15330, Silver Spring, Maryland 20910.

*Information Contacts*: The point of contact is Sam Contorno, NOAA/NWS, 1325 East-West Highway, Room 15330, Silver Spring, Maryland 20910–3283, or by phone at 301–713–3557 ext. 150, by fax to 301–713–1253, or via e-mail at *samuel.contorno@noaa.gov.*

Questions concerning this announcement must be made via e-mail to *samuel.contorno@noaa.gov.* Questions and NOAA responses will be made public via the Web at *http://www.nws.noaa.gov/ost/cstar.htm.*

*Eligibility:* Eligible applicants are institutions of higher education and federally funded educational institutions such as the Naval Postgraduate School. This restriction is needed because the results of the collaboration are to be incorporated in academic processes which ensure academic multidisciplinary peer review as well as Federal review of scientific validity for use in operations.

*Cost Sharing Requirements:* No cost sharing is required under this program.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

2. Remote Community Alert Systems Program 2010

*Summary Description:* The Remote Community Alert Systems Program 2010 represents a NOAA/NWS effort to provide for outdoor alerting technologies in remote communities effectively underserved by commercial mobile service for the purpose of enabling residents of those communities to receive emergency messages. These activities will engage the private sector, academia, county and local governments with their State Government office, U.S. Territory or Possession Government office or Tribal Community Government office in opportunities and technologies to further disseminate emergency messages. This program is a contributing element of the Warning, Alert, and Response Network (WARN) Act, and is designed to complement other agency contributions to that national effort. This program adopts the Federal Communications Commission's definition of the term ''remote'' which means an area consisting of a county with a population density of 100 persons per square mile or less, based on the most recently available Census data. Also, ''commercial mobile service'' means those services that are required to provide E911 services in accordance with Section 20.18 of the Commission's rules. ''Effectively underserved'' identifies ''remote communities'' that do not receive ''commercial mobile service'' as demonstrated by coverage maps, technical analysis, field tests, or any other reasonable means.

*Funding Availability:* The total funding amount available for proposals is anticipated to be approximately $2,000,000. We anticipate making multiple awards, approximately 20, ranging from $50,000 to $250,000.

*Statutory Authority:* Authority for the Remote Community Alert Systems Program is provided by: 47 U.S.C. 1204.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.468, Applied Meteorological Research.

*Application Deadline:* Applications must be received on or before 5 p.m. EST, February 26, 2010. For applications submitted through Grants.gov, timeliness will be determined by the time and date indicator in the grants.gov submission. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. For applications submitted by hard copy, the submission date will be the time stamp on the received documents. Applications received after the date and time due will not be reviewed.

*Address for Submitting Proposals:* Applications must be submitted through *www.grants.gov.* For those organizations without Internet access, applications may be sent to Craig Hodan, NOAA/NWS, 1325 East-West Highway, Room 3348, Silver Spring, Maryland 20910. E-mail and fax submissions will not be accepted.

*Information Contacts*: Craig Hodan, NOAA/NWS, 1325 East-West Highway, Room 3348, Silver Spring, Maryland 20910, *Phone:* 301–713–9480 x 187, *e-mail: craig.hodan@noaa.gov.*

*Eligibility:* Eligible applicants are State Governments, U.S. Territories or Possessions and Tribal Communities. This restriction is needed to efficiently manage the potential number of applications. Private sector, academia, County and Local governments must collaborate with their State Government office, U.S. Territory or Possession Government office or Tribal Community Government office to have their project proposal included in an application from the State Government, U.S. Territory or Possession or Tribal Community.

*Cost Sharing Requirements:* No cost sharing is required under this program.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

*Oceanic and Atmospheric Research (OAR)*

1. 2010 NMFS—Sea Grant Fellowships in Marine Resource Economics

*Summary Description:* The Graduate Fellowship Program generally awards two new PhD fellowships each year to students who are interested in careers related to the development and implementation of quantitative methods for assessing the economics of the conservation and management of living marine resources. Fellows will work on thesis problems of public interest and relevance to NMFS under the guidance of NMFS mentors at participating NMFS Science Centers or Laboratories. The NMFS—Sea Grant Fellowships in Marine Resource Economics meets NOAAs Mission goal to ''Protect, Restore and Manage the Use of Coastal and Ocean Resources Through Ecosystem-Based Management.''

*Funding Availability:* The NMFS—Sea Grant Joint Graduate Fellowship Program in Marine Resource Economics

expects to support two new fellowships for up to 2 years for each fellowship.

*Statutory Authority:* Authority for the Resource Economics Graduate Fellowship Program is provided by the following: 33 U.S.C. 1127(a).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.417, Sea Grant Support.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 4 p.m. ET, February 12, 2010. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.Grants.gov.* For those organizations without Internet access, applications may be sent to: National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910. Facsimile transmission and electronic mail submission of applications will not be accepted.

*Information Contacts:* Contact Terry Smith, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; *phone:* (301) 734–1084; *e-mail: Terry.Smith@noaa.gov.*

*Eligibility:* Prospective Fellows must be United States citizens. At the time of application, prospective Marine Resource Economics Fellows must be admitted to a PhD degree program in natural resource economics or a related field at an institution of higher education in the United States or its territories or submit a signed letter from the institution indicating provisional acceptance to a PhD degree program conditional on obtaining financial support such as this fellowship. Applications must be submitted by the institution of higher education, which may be any such institution in the United States or its territories.

*Cost Sharing Requirements:* Of the $38,500 award, 50 percent ($19,250) will be contributed by NMFS, 33⅓ percent ($12,833) by the National Sea Grant Office (NSGO), and 16⅔ percent ($6,417) by the institution of higher education as the required 50 percent match of NSGO funds.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

2. 2010 NMFS–Sea Grant Fellowships in Population Dynamics

*Summary Description:* The Graduate Fellowship Program awards at least two new PhD fellowships each year to students who are interested in careers related to the population dynamics of living marine resources and the development and implementation of quantitative methods for assessing their status. Fellows will work on thesis problems of public interest and relevance to NMFS under the guidance of NMFS mentors at participating NMFS Science Centers or Laboratories. The NMFS–Sea Grant Fellowships in Population Dynamics meets NOAA's Mission goal of ''Protect, Restore and Manage the Use of Coastal and Ocean Resources Through Ecosystem-Based Management''.

*Funding Availability:* The Graduate Fellowship Program awards at least two new PhD fellowships each year to students who are interested in careers related to the population dynamics of living marine resources and the development and implementation of quantitative methods for assessing their status. The award for each Fellowship, contingent upon the availability of Federal funds, will be a multi-year cooperative agreement in the amount of $38,500 per year for up to three years. This involvement includes serving for 10–20 days aboard a research or commercial vessel during a scientific survey or experimental activity.

Additionally, the Fellow may work on his/her thesis research or related activity at a participating NMFS facility. The Fellow's work will be overseen by a NMFS mentor who will provide advice and guidance.

*Statutory Authority:* Authority for the Population Dynamics Graduate Fellowship Program is provided by the following: 33 U.S.C. 1127(a).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.417, Sea Grant Support.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 4 p.m. ET, February 12, 2010. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through *www.Grants.gov.* For those organizations without Internet access, applications may be sent to: National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910. Facsimile transmission and electronic mail submission of applications will not be accepted.

*Information Contacts*: Contact Terry Smith, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, MD 20910; *phone:* (301) 734–1084; *e-mail: Terry.Smith@noaa.gov.*

*Eligibility:* Prospective Fellows must be United States citizens. At the time of application, prospective Population Dynamics Fellows must be admitted to a PhD degree program in population dynamics or a related field such as applied mathematics, statistics, or quantitative ecology at an institution of higher education in the United States or its territories, or submit a signed letter from the institution indicating provisional acceptance to a PhD degree program conditional on obtaining financial support such as this fellowship.

Applications must be submitted by the institution of higher education, which may be any such institution in the United States or its territories.

*Cost Sharing Requirements:* Of the $38,500 award, 50 percent ($19,250) will be contributed by NMFS, 33⅓ percent ($12,833) by the National Sea Grant Office (NSGO), and 16⅔ percent ($6,417) by the institution of higher education as the required 50 percent match of NSGO funds.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

3. 2010 Sea Grant/Regional Team Climate Engagement

*Summary Description:* For FY 2010, the NOAA National Sea Grant College Program and Office of Program Planning and Integration anticipate making available up to $200,000 to support projects that advance priority climate engagement strategies throughout NOAA.

The climate engagement mini-grants will be awarded only to proposals endorsed jointly by the NOAA Regional Collaboration Team Lead and the Sea

Grant Liaison to the NOAA Regional Collaboration Team (selected among the Sea Grant Directors programs in the region). Awards will be made as interoffice transfers to NOAA entities and cooperative agreements to non-Federal entities, or a combination of interoffice transfers and cooperative agreements for projects that support both NOAA and non-Federal entities. Although other federal, state, tribal, Native Hawaiian, other native cultures, academic and non-profit or non-governmental organizations can act as partners, the Project Principal Investigator of the grant must be a NOAA Federal employee or a Sea Grant employee. Requests for individual projects may not exceed $25,000. Up to eight mini-grants of up to $25,000 are expected to be awarded through a competitive process, subject to the availability of funds. This competition supports four NOAA Program Goals: ''Protect, Restore and Manage the Use of Coastal and Ocean Resources Through Ecosystem-Based Management''; ''Understand Climate Variability and Change To Enhance Society's Ability To Plan and Respond''; Serve Society's Needs for Weather and Water Information''; and ''Support the Nation's Commerce With Information for Safe, Efficient, and Environmentally Sound Transportation''.

*Funding Availability:* For FY 2010, the NOAA National Sea Grant College Program and Office of Program Planning and Integration anticipate making available up to $200,000 to support projects that advance priority climate engagement strategies throughout NOAA.

The climate engagement mini-grants will be awarded only to proposals endorsed jointly by the NOAA Regional Collaboration Team Lead and the Sea Grant Liaison in the region. Awards will be made as interoffice transfers to NOAA entities and cooperative agreements to non-Federal entities, or through a combination of interoffice transfers and cooperative agreements for projects that support both NOAA and non-Federal entities. Although other Federal, Sea Grant, state, tribal, Native Hawaiian, other native cultures, academic and non-profit or non-governmental organizations can act as partners, the Project PI of the grant must be either a NOAA Regional Collaboration Team member or a Sea Grant employee, and the Co-PI must be the opposite, e. g., if a Sea Grant employee is the PI, then the NOAA Regional Collaboration Team member must be the Co-PI and vice versa. A maximum of one cooperative agreement award will be made per region. All other participating Sea Grant Programs and institutions must be handled through subawards. It is expected that in each NOAA Region, the Sea Grant Programs and NOAA Regional Collaboration Team, working through their Team Lead and Sea Grant Liaison, will identify and submit only one application for that Region.

*Statutory Authority:* Authority for the Climate Extension Partnership mini-grants is provided by 33 U.S.C. 1121 *et seq.,* as amended.

*Catalog of Federal Domestic Assistance (CFDA) Number(s):* 11.417, Sea Grant Support.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 11:59 p.m. EDT, September 1, 2009. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

*Address for Submitting Proposals:* Applications must be submitted through grants.gov by the Sea Grant entity of the collaboration, unless the applicant does not have Internet access. Applicants without Internet access must submit the proposal in hardcopy (one unbound original and one copy) to Gina Barerra, National Sea Grant College Program, R/SG, *Attn:* Climate Extension Partnership Minigrants, Room 11841, NOAA, 1315 East-West Highway, Silver Spring, MD 20910.

If the application does not request any funding for non-Federal investigators (that is, the Sea Grant co-principal investigator is not requesting any funding), then contact Jim Murray listed in Information Contacts, below, for instructions on submitting the application.

*Information Contacts*: Jim Murray in NOAA's National Sea Grant Office *jim.d.murray@noaa.gov*, or phone 301–734–1070 or Lisa Iwahara in NOAA's Program Planning and Integration Office *lisa.iwahara@noaa.gov*, or phone 301–713–1622 x 181.

*Eligibility:* Only NOAA entities or Sea Grant institutions are eligible to apply. Only applications that include a co-signed letter of endorsement from the Regional Collaboration Team Lead and the Sea Grant Liaison are eligible. Information on the Regional Collaboration Teams is available at *http://www.ppi.noaa.gov/PPI_Capabilities/regional_collaboration.html.*

*Cost Sharing Requirements:* None required (per 33 U.S.C 1124(b), special grants).

*Intergovernmental Review:* Applications under this Program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

4. 2011 National Sea Grant College Program Dean John A. Knauss Marine Policy Fellowship

*Summary Description:* This notice announces that applications may be submitted for the Dean John A. Knauss Marine Policy Fellowship (Knauss Sea Grant Fellowship Program). The Knauss Sea Grant Fellowship Program is a program initiated by the National Oceanic and Atmospheric Administration (NOAA) National Sea Grant College Program, in fulfilling its broad educational responsibilities and legislative mandate of the Sea Grant Act, to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine and aquatic-related fields. The Knauss Sea Grant Fellowship Program meets NOAA's Mission goal of Protect, Restore and Manage the Use of Coastal and Ocean Resources Through Ecosystem-Based Management.

*Funding Availability:* The state SGCP receives and administers the overall cooperative agreement of $46,000 per student on behalf of each Fellow selected from their program. Of this amount, the state SGCP provides $35,000 to each Fellow for stipend and living expenses (per diem). Of the total cooperative agreement amount, the state SGCP provides $9,000 to cover mandatory health insurance for the Fellow and moving expenses.

Any remaining funds of the $9,000 shall be used for the fellow during the Fellowship year, first to satisfy academic degree-related activities, and second for Fellowship-related activities. Finally, up to $2,000 from the total $46,000 can be used to cover placement week costs. Indirect costs are not allowable from the Federal funds either for the Fellowships or for any costs associated with the Fellowships, including the $2,000 budgeted for placement week. During the Fellowship, the host may provide supplemental funds for work-related travel by the Fellow. Not less than 30 applicants will be selected, of which the selected applicants assigned to the Legislative branch may be limited to 10.

*Statutory Authority:* 33 U.S.C. 1127(b).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.417, Sea Grant Support.

*Application Deadline:* Applications from prospective fellows to the State Sea Grant College Programs (SGCP) are due by 5 p.m. February 19, 2010. Contact your state SGCP (see IV.A. of the Federal Funding Opportunity for program contact information) for information on application submission deadlines. Selected applications from the sponsoring state SGCP must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. April 2, 2010. Please note: Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted. For state SGCP applications submitted through Grants.gov, a date and time receipt indication is included and will be the basis of determining timeliness. Hard copy applications will only be accepted if a state SGCP can justify in writing that Internet access is not available to them at the time of submission. Hard copy applications will be date and time stamped when they are received.

*Address for Submitting Proposals:* Eligible graduate students must submit applications to the state SGCP. The addresses and contact information for each state SGCP can be found at *http://www.seagrant.noaa.gov/other/programsdirectors.html*. The addresses can also be received from Miguel Lugo, Knauss Sea Grant Fellowship Program Manager, National Sea Grant College Program, 1315 East-West Highway, R/SG, Rm 11828, Silver Spring, MD 20910. After completion of the state SGCP review, selected applications will be submitted through www.grants.gov to the National Sea Grant College Program. State SGCP without Internet access may send hard copy proposals to Miguel Lugo at the above address.

*Information Contacts*: Contact Miguel Lugo, Knauss Fellowship Program Manager, National Sea Grant College Program, 1315 East-West Highway, R/SG, Rm 11828, Silver Spring, MD 20910; phone: (301) 734–1077 x 1075.

*Eligibility:* Any student, regardless of citizenship, who, on February 19, 2010, is in a graduate or professional program in a marine or aquatic-related field at a United States accredited institution of higher education in the United States or U.S. Territories may apply to the state SGCP. Only state SGCP are eligible to submit applications to the National Sea Grant College Program.

*Cost Sharing Requirements:* None required.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

5. Climate Program Office for FY 2010

*Summary Description:* NOAA's Climate Mission is to understand climate variability and change to enhance society's ability to plan and respond. The long-term climate efforts of NOAA are designed to develop a predictive understanding of variability and change in the global climate system, and to advance the application of this information in climate-sensitive sectors through a suite of process research, observations and modeling, and application and assessment activities. The NOAA Climate Program Office coordinates climate activities across all NOAA in fulfillment of NOAA's Climate Mission. The Program partners with Federal, academic, private, and international research institutions; the Program is also a key contributing element of the U.S. Climate Change Science Program (CCSP).

*Funding Availability:* In FY 2008, approximately $14M in first-year funding was available for 102 new awards. While similar funds and number of awards are anticipated in FY 2010, the number of new awards and funding levels depends upon the final FY 2010 budget appropriations. It is anticipated that awards will depend upon the program, but for the office as a whole be up to three years in length and cost between $50,000 and $200,000 per year (e.g., awards from the Sector Applications Research Program are limited to $150,000 per year). Federal funding for FY 2011 may be used to fund some awards submitted under this Competition. Current or previous grantees are eligible to apply for a new award that builds on, but does not replicate, activities covered in the current or previous award. Current grantees should not apply for supplementary funding through this announcement.

*Statutory Authority:* 49 U.S.C. 47720(b), 15 U.S.C. 2904, 15 U.S.C. 2931–2934.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.431, Climate and Atmospheric Research.

*Application Deadline:* Full applications for all Competitions other than U.S. CLIVAR Climate Process Teams must be received and validated by Grants.gov, postmarked, or provided to a delivery service by 5 p.m. ET, August 31, 2009. Applications received after that time will not be considered for funding. For applications submitted through grants.gov a date and time receipt indication is included and will be the basis of determining timeliness. Hard copy submissions will be date and time stamped when they are received in the Climate Program Office. Faxed or e-mailed copies of applications will not be accepted.

Full applications for U.S. CLIVAR Climate Process Teams must be received and validated by Grants.gov, postmarked, or provided to a delivery service by 5 p.m. ET, September 15, 2009. Applications received after that time will not be considered for funding. For applications submitted through grants.gov a date and time receipt indication is included and will be the basis of determining timeliness. Hard copy submissions will be date and time stamped when they are received in the Climate Program Office. Faxed or e-mailed copies of applications will not be accepted.

Important: All applicants, both electronic and paper, should be aware that adequate time must be factored into applicant schedules for delivery of the application. Electronic applicants are advised that the volume on Grants.gov is currently extremely heavy, and if Grants.gov is unable to accept applications electronically in a timely fashion, applicants are encouraged to exercise their option to submit applications in paper format. You should contact the Grants.Gov office in the event you are having difficulty submitting an application electronically. Paper applicants should allow adequate time to ensure a paper application will be received on time, taking into account that guaranteed overnight carriers are not always able to fulfill their guarantees.

*Address for Submitting Proposals:* Applications are submitted through Grants.Gov ''Apply for Grants''. If an applicant does not have Internet access, the CPO Grants Manager Diane Brown should be contacted by mail at NOAA Climate Program Office (R/CP1), SSMC3, Room 12112, 1315 East-West Highway, Silver Spring, MD 20910 for hard copy submission instructions. Please allow two weeks after receipt for a response.

*Information Contacts:* Please visit the CPO Web site for further information *http://www.climate.noaa.gov/* or contact the CPO Grants Manager, Diane Brown by mail (*see* address above). Please allow up to two weeks after receipt for a response.

*Eligibility:* Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

*Cost Sharing Requirements:* None required.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of federal programs.

6. FY 2010 Ocean Exploration and Research Appropriation—Marine Archaeology

*Summary Description:* Proposals for exploration and discovery of significant maritime heritage sites are the priority. Submerged, previously subaerial, landscapes, shipwrecks, and other maritime cultural sites are typical focus subjects of the program.

Proposals will emphasize the early phases of field archaeology: searching, locating, evaluating or inventorying sites. This Announcement does not invite proposals to support later phases of archaeological research, such as intensive site excavations, and major conservation projects. All applicants must convincingly describe: The potential archaeological significance of their site(s), and their importance to American or world history; how their research fits within the realm of exploration; why their methodologies are innovative and make the most economical use of current marine technology. NOAA's Office of Ocean Exploration and Research (OER) is seeking pre-proposals and full proposals to support its mission, consistent with NOAA's Strategic Plan *http://www.nrc.noaa.gov*, to search, investigate, and document marine archaeological resources. OER is seeking proposals for exploration and discovery of significant maritime heritage sites, including submerged, previously subaerial, landscapes, shipwrecks, aircraft, and other maritime cultural sites.

Competitive OER proposals will be bold, innovative and interdisciplinary in their approach and objectives. Proposals will emphasize the early phases of field archaeology: searching, locating, evaluating or inventorying sites. Marine Archaeology projects may be conducted in any of the world's oceans, coasts or Great Lakes regions, on any suitable platform, vessel or other charter. It is anticipated that up to a total of approximately $400,000 will be available through this announcement. Only marine archaeology proposals will be funded, any other kind of project will not be reviewed. Applicants are encouraged to visit the Ocean Explorer Web site *http://www.oceanexplorer.noaa.gov* to familiarize themselves with past and present OER-funded marine archaeological activities. Background on how to apply and the required proposal cover sheets are accessible through the OER Office Web site at *http://www.explore.noaa.gov/opportunity/welcome.html*. The program priorities for this opportunity support NOAA's mission support goal to ''Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.''

*Funding Availability:* In anticipation of the FY 2010 President's Budget, OER anticipates up to $400,000 will be available through this announcement for Marine Archaeology. OER anticipates supporting approximately three to four awards through this solicitation, averaging $100,000 each. The OER Director may hold over select proposals submitted for FY 2010 funding for consideration in FY 2011. The amount of funding available through this announcement is subject to the final FY 2010 appropriation for Ocean Exploration and Research. Publication of this announcement does not obligate NOAA to fund any specific project or to obligate all or any part of available funds. There is no guarantee that sufficient funds will be available to initiate or continue research activities where funding has been recommended by OER. The exact amount of funds that OER may recommend be granted will be determined in pre-award negotiations between the applicant and NOAA representatives. Future opportunities for submitting proposals may be available and will depend on OER funding levels.

*Statutory Authority:* 33 U.S.C. 3403(a)(4).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.460, Special Oceanic and Atmospheric Projects.

*Application Deadline:* Completed pre-proposals are required for all categories and must be received by 5 p.m. EST August 17, 2009. A complete pre-proposal is a prerequisite for submission of a full proposal.

Full proposals must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EST, October 13, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail full proposals will be accepted from non-Federal applicants.

*Address for Submitting Proposals:* Pre-proposal submissions can be either by e-mail (preferred, send to *OAR.OE.FAQ@noaa.gov*) or by hard-copy (send three copies to the mailing address below). If by e-mail, please put your last name in the subject heading along with the words OER Pre-proposal, e.g., ''Smith OER Pre-proposal.'' Adobe PDF format is preferred. No facsimile pre-proposals will be accepted. Full proposal submissions for non-Federal applicants must be submitted through Grants.gov. Federal applicants are ineligible to submit via grants.gov and may submit their submissions by e-mail (preferred, send to *OAR.OE.FAQ@noaa.gov*) or by hard-copy (send three copies to the mailing address below). Non-Federal applicants without Internet access may submit hard-copies to: *Attn:* Dr. Nicolas Alvarado, Ocean Exploration Proposal Manager, NOAA Office of Ocean Exploration & Research, SSMC III, 10th Floor, 1315 East-West Highway, Silver Spring, Maryland 20910. No e-mail from non-Federal applicants or facsimile full proposal submissions from Federal and non-Federal applicants will be accepted.

*Information Contacts:* For further information contact the NOAA Office of Ocean Exploration at (301) 734–1015 or submit inquiries via e-mail to the Frequently Asked Questions address: *OAR.OE.FAQ@noaa.gov*. E-mail inquiries should include the Principal Investigator's name in the subject heading. Inquiries can be mailed to ATTN: Dr. Nicolas Alvarado (Ocean Exploration Proposal Manager) NOAA Office of Ocean Exploration and Research 1315 East-West Highway SSMC3, 10th Floor, Silver Spring, Maryland, 20910.

*Eligibility:* Eligible applicants are institutions of higher education; other nonprofits; commercial organizations; foreign governments; organizations under the jurisdiction of foreign governments; international organizations; state, local and Indian tribal governments; and Federal agencies. **Please Note:** Before non-

NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

*Cost Sharing Requirements:* Cost-sharing is not required.

*Intergovernmental Review:* Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants must contact their State's Single Point of Contact (SPOC) to find out about and comply with the State's process under EO 12372. The names and addresses of the SPOC's are listed in the Office of Management and Budget's Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

*National Environmental Satellite Data and Information Service (NESDIS)*

1. Research in Satellite Data Assimilation for Numerical Weather, Climate and Environmental Forecast Systems

*Summary Description:* The NOAA/NASA/DOD Joint Center for Satellite Data Assimilation (JCSDA) is a distributed center that engages units of NASA: Goddard Space Flight Center (GSFC) Earth–Sun Exploration Division; NOAA: NESDIS Center for Satellite Applications and Research (STAR), National Weather Service (NWS), National Centers for Environmental Prediction (NCEP)/Environmental Modeling Center (EMC), and Office of Oceanic and Atmospheric Research (OAR); US Navy: Oceanographer of the Navy and the Naval Research Laboratory (NRL); and U.S. Air Force Air Weather Agency. The Joint Center's goal is to accelerate the abilities of NOAA, DOD, and NASA to ingest and effectively use the large volumes of data from current satellite-based instruments and planned satellite missions over the next 10 years. JCSDA activities are divided into infrastructure development and proposal-driven scientific projects. Infrastructure activities will focus initially on the development and maintenance of a scientific backbone for the JCSDA, including a community-based radiative transfer model, a community-based surface emissivity model, and numerical prediction systems for performing assimilation experiments with real and simulated observations from new and future satellite instruments. The proposal-driven scientific projects are the primary mechanism for accelerating the transition of research and technological advances in remote sensing and data assimilation into the operational and product driven weather, ocean, climate, and environmental prediction systems. This mechanism also aims at improving community radiative transfer models and surface emissivity models, and characterizing the error covariances related to forecast models, radiative transfer models and satellite observations.

This research is directed toward acceleration of the science of satellite data assimilation in numerical weather forecast models and in ocean and land surface models used for climate prediction and operational ocean applications. A primary measure of potential impact in this solicitation will be the acceleration of satellite data usage into NOAA, and DoD forecast systems, and the improvement of forecasts from those systems. This opportunity supports the JCSDA short-term goal to ''contribute to making the forecast skill of the operational NWP systems of the JCSDA partners internationally competitive by assimilating the largest possible number of satellite observations in the most effective way.'' It also supports the JCSDA partners individual missions, including NOAA's mission goal of Weather and Water—Serve Society's Needs for Weather and Water Information, as well as NASA's mission to understand and protect our home planet and DoD's Air Force and Navy respective missions.

Research supporting development of the radiative transfer models used in assimilation applications should be in fast radiative transfer codes such as those used in real-time Numerical Weather Prediction (NWP). Broader research topics in data assimilation, data impact, and improvement of radiative schemes for data assimilation applications that do not have the potential for direct application to real-time NWP or other operational environmental prediction systems are of less interest for this announcement.

*Funding Availability:* Total funding available for this program is anticipated to be approximately $600,000. Individual annual awards in the form of grants or cooperative agreements are expected to range from $50,000 to $150,000, although larger amounts may be awarded. It is anticipated that 4–6 awards will be made.

*Statutory Authority:* Authority for this program are provided under 15 U.S.C. 313, 49 U.S.C. 44720(b); 15 U.S.C. 2901.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.440, Environmental Sciences, Applications, Data, and Education.

*Application Deadline:* Letters of Intent must be received by NOAA/NESDIS no later than 5 p.m. EDT Time August 24, 2009. For Letters of Intent received after that date, a timely response from the JCSDA may not be possible.

Full proposals must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 5 p.m. EDT on October 13, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline.

For LOIs sent by e-mail or fax, the date and time indicator on the e-mail or fax will be used. LOIs sent by hard copy will be date and time stamped when they are received. For full proposals sent through Grants.gov, the Grants.gov date and time indicator will be used. Full proposals sent by hard copy will be date and time stamped when they are received. All proposals must be submitted in accordance with the guidelines below. Failure to follow these guidelines will result in proposals being returned to the submitter.

*Address for Submitting Proposals:* Letters of Intent (LOIs) may be e-mailed to *Sid.Boukabara@noaa.gov*. Hard copies may be sent to Dr. Sid Boukabara, JCSDA, NOAA/NESDIS, 5200 Auth Rd., Rm 808, Camp Springs, MD 20746. LOIs may be faxed to 301–763–8149 and directed to Dr. Sid Boukabara. Full proposals from non-Federal organizations must be submitted through *www.grants.gov*, unless the organization is without Internet access. In that case, hard copy proposals may be sent to Dr. Sid Boukabara, JCSDA, NOAA/NESDIS, 5200 Auth Rd., Rm 808, Camp Springs, MD 20746. Full proposals from federal agencies must be submitted by e-mail to *Sid.Boukabara@noaa.gov* or sent by hard copy to Dr. Sid Boukabara, Deputy Director, JCSDA, NOAA/NESDIS, 5200 Auth Rd., Rm 808, Camp Springs, MD 20746.

*Information Contacts:* Administrative questions: Ms. Patty Mayo, by phone (301) 763–8127, x107, *fax:* 301–763–8108, or e-mail: *patty.mayo@noaa.gov*. Technical questions: Dr. Sid Boukabara, (NOAA Program Officer), by phone 301–763–8136, fax: 301–763–8149 or via e-mail: *Sid.Boukabara@noaa.gov*.

*Eligibility:* Eligible applicants are institutions of higher education; other nonprofit; for profits; international organizations; state, local and Indian

tribal governments; and Federal agencies. Applications from non-Federal and Federal applicants will be competed against each other. Proposals selected for funding from non-Federal applicants will be funded through a grant or cooperative agreement as described in this notice. Proposals selected for funding from NOAA scientists shall be effected by an intra-agency fund transfer. Proposals select for funding from non-NOAA Federal agency will be funded through an inter-agency transfer. **Please Note:** Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. The only exception to this is governmental research facilities for awards issued under the authority of 49 U.S.C. 44720(b). Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

*Cost Sharing Requirements:* No cost sharing nor matching is required under this program.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

7. Student Opportunity for Learning

*Summary Description:* The National Environmental Satellite, Data, and Information Service (NESDIS), Office of Research and Applications (ORA), announces the availability of Federal assistance for an educational institution to provide a summer enrichment program for middle school student in the area Mathematics, Science, Engineering, and Technology (MSET) for minority and economically disadvantaged students. This program responds to a need for these targeted students to receive instruction and activities that will encourage them to pursue careers in (MSET) fields.

*Funding Availability:* NOAA believes its Science and Technology related fields as a whole will benefit significantly from encouraging students to pursue Mathematics, Science, Engineering and Technology Degrees. Current program plans assume the total resources provided through this announcement will support the two-week enrichment program. The total amount available for proposals is anticipated to be approximately $126,000. It is anticipated that three, one-year awards will be made from this budget. Funding is available to make the award for the first of these three planned awards, however, there is no guarantee that sufficient funds will be available to make all awards.

Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If one incurs costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at one's own risk of these costs not being included under the award.

*Statutory Authority:* Statutory authority for this program is provided under 15 U.S.C. 1540.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.440, Environmental Sciences, Applications, Data, and Education.

*Application Deadline:* Applications must be received and validated by Grants.gov, postmarked, or provided to a delivery service on or before 4 p.m. EDT, October 19, 2009. **Please note:** Validation or rejection of your application by Grants.gov may take up to 2 business days after submission. Please consider this process in developing your submission timeline. Applications received after the deadline will be rejected/returned to the sender without further consideration. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted. Hard copy proposals will be date and time stamped when they are received in the program office. Proposals received after the deadline will not be considered for award.

*Address for Submitting Proposals:* Proposals must be submitted electronically via *http://www.grants.gov*. For applicants without Internet access, hard copies (by postal mail, commercial delivery service, or hand delivery) may be sent to the Wallops CDA Station, *Attn:* Van Crawford, NOAA/NESDIS/WCDAS; 35663 Chincoteague Road, Wallops, Virginia 23337.

*Information Contacts:* Administrative or technical questions: Van D. Crawford, NOAA/NESDIS/WCDAS; 35663 Chincoteague Road, Wallops, Virginia 23337. *Phone:* 757–824–7375. E-mail *van.d.crawford@noaa.gov*.

*Eligibility:* Eligible applications can be from any institution of higher education in the United States.

*Cost Sharing Requirements:* None required.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372: Intergovernmental Review of Federal Programs.

**V. Non-Competitive Financial Assistance Project Announcement**

1. NOAA Coral Reef Conservation Grant Program—Coral Reef Ecosystem Research Grants

*Summary Description:* The NOAA Coral Reef Conservation Grant Program announces that it is providing funding to the NOAA Undersea Research Program (NURP) Centers for the Southeastern U.S., Florida, and Gulf of Mexico Region, the Southeast U.S. and Gulf of Mexico Center; and the Hawaii and Western Pacific Region, the Hawaii Undersea Research Laboratory, to administer two external, competitive coral reef ecosystem research grants programs. Research supported through these programs will address priority information needs identified by coral reef ecosystem managers and scientists. Coral reef research priorities supported through these programs will focus efforts on strategic management needs and understanding and addressing the following three key priority threats: impacts of fishing, impacts of land-based sources of pollution, and impacts of climate change. Specific priorities within these broad areas, and geographic preferences, will be indicated in each NURP Center's request for proposals. The NURP Center external coral reef research grants programs are part of the NOAA Coral Reef Conservation Grants Program under the Coral Reef Conservation Act of 2000. The program priorities for this opportunity support NOAA's mission support goal of: Ecosystems—Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

*Funding Availability:* Approximately $600,000 may be available in FY 2010 to support awards under this program.

*Statutory Authority:* Statutory authority for this program is provided under 16 U.S.C. 6403.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 11.430, National Undersea Research Program.

*Information Contact:* John Tomczuk, 301–734–1009 or e-mail at *john.tomczuk@noaa.gov*. Announcements requesting proposals will be announced on: *http://www.uncw.edu/nurc,* for the NURP Center for the Southeastern U.S. and the Gulf of Mexico; on *http://www.soest.hawaii.edu/HURL,* for the NURP Center for Hawaii and the Western Pacific, the Hawaii Undersea Research Laboratory.

*Cost Sharing Requirements:* The awards require a 1:1 federal to non-federal match.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Limitation of Liability

Funding for programs listed in this notice is contingent upon the availability of Fiscal Year 2010 appropriations. Applicants are hereby given notice that funds have not yet been appropriated for the programs listed in this notice. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Universal Identifier

Applicants should be aware that, they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. *See* the October 30, 2002 **Federal Register** (67 FR 66177) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the Internet at *http://www.dunandbradstreet.com.*

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216-6-TOC.pdf,* NEPA Questionnaire, *http://www.nepa.noaa.gov/questionnaire.pdf,* and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc-ceq.htm.* Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Compliance With Department of Commerce Bureau of Industry and Security Export Administration Regulations

(a) This clause applies to the extent that this financial assistance award involves access to export-controlled information or technology.

(b) In performing this financial assistance award, the recipient may gain access to export-controlled information or technology. The recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled information and technology, including deemed exports. The recipient shall establish and maintain throughout performance of the financial assistance award effective export compliance procedures at non-NOAA facilities. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled information and technology.

(c) Definitions

(1) Deemed export. The Export Administration Regulations (EAR) define a deemed export as any release of technology or source code subject to the EAR to a foreign national, both in the United States and abroad. Such release is ''deemed'' to be an export to the home country of the foreign national. 15 CFR 734.2(b)(2)(ii).

(2) Export-controlled information and technology. Export-controlled information and technology is information and technology subject to the EAR (15 CFR parts 730 *et seq.*), implemented by the DOC Bureau of Industry and Security, or the International Traffic I Arms Regulations (ITAR) (22 CFR parts 120–130), implemented by the Department of State, respectively. This includes, but is not limited to, dual-use items, defense articles and any related assistance, services, software or technical data as defined in the EAR and ITAR.

(d) The recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession in performance of a financial assistance award, to ensure that access is restricted, or licensed, as required by applicable Federal laws, Executive Orders, and/or regulations.

(e) Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, Executive Orders or regulations.

(f) The recipient shall include this clause, including this paragraph (f), in all lower tier transactions (subawards, contracts, and subcontracts) under the financial assistance award that may involve access to export-controlled information technology.

NOAA implementation of Homeland Security Presidential Directive-12

If the performance of a financial assistance award, if approved by NOAA, requires recipients to have physical access to Federal premises for more than 180 days or access to a Federal information system, any items or services delivered under a financial assistance award shall comply with the Department of Commerce personal identity verification procedures that implement Homeland Security Presidential Directive-12, FIPS PUB 201, and the Office of Management and Budget Memorandum M–05–24. The recipient shall insert this clause in all subawards or contracts when the subaward recipient or contractor is required to have physical access to a Federally controlled facility or access to a Federal information system.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696) are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424 and 424A, 424B, 424C, 424D, and SF–LLL has been

approved by OMB under the respective control numbers 4040–0004, 4040–0006, 4040–0007, 4040–0008, 4040–0009, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

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

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

**Mitchell J. Ross,**

*Director, Acquisition and Grants Office, National Oceanic and Atmospheric Administration (NOAA).*

[FR Doc. E9–16810 Filed 7–15–09; 8:45 am]

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# Reader Aids

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**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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## LIST OF PUBLIC LAWS

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**H.R. 1777/P.L. 111–39**

To make technical corrections to the Higher Education Act of 1965, and for other purposes. (July 1, 2009; 123 Stat. 1934)

**S. 614/P.L. 111–40**

To award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP"). (July 1, 2009; 123 Stat. 1958)

**Last List July 6, 2009**

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