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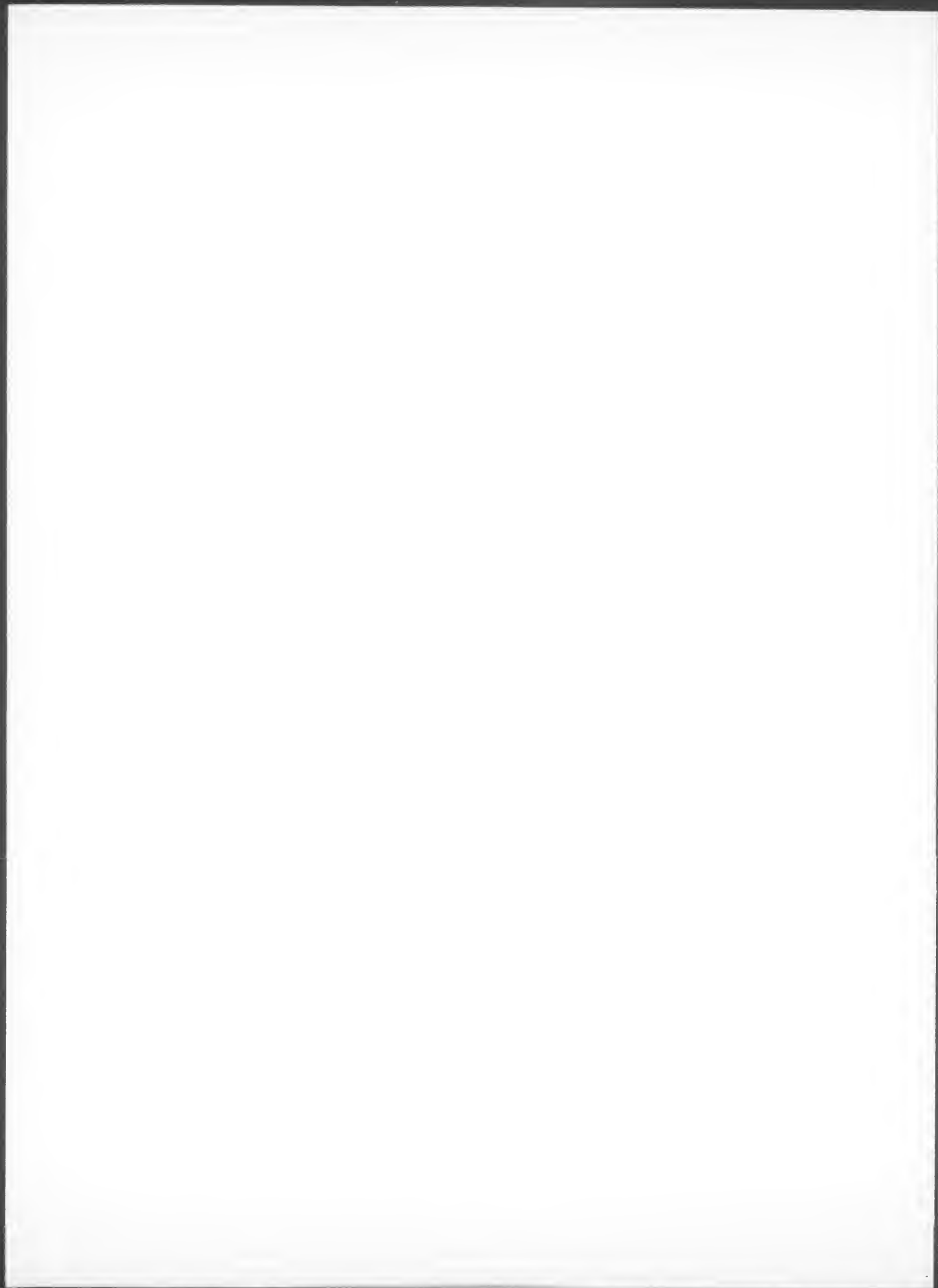
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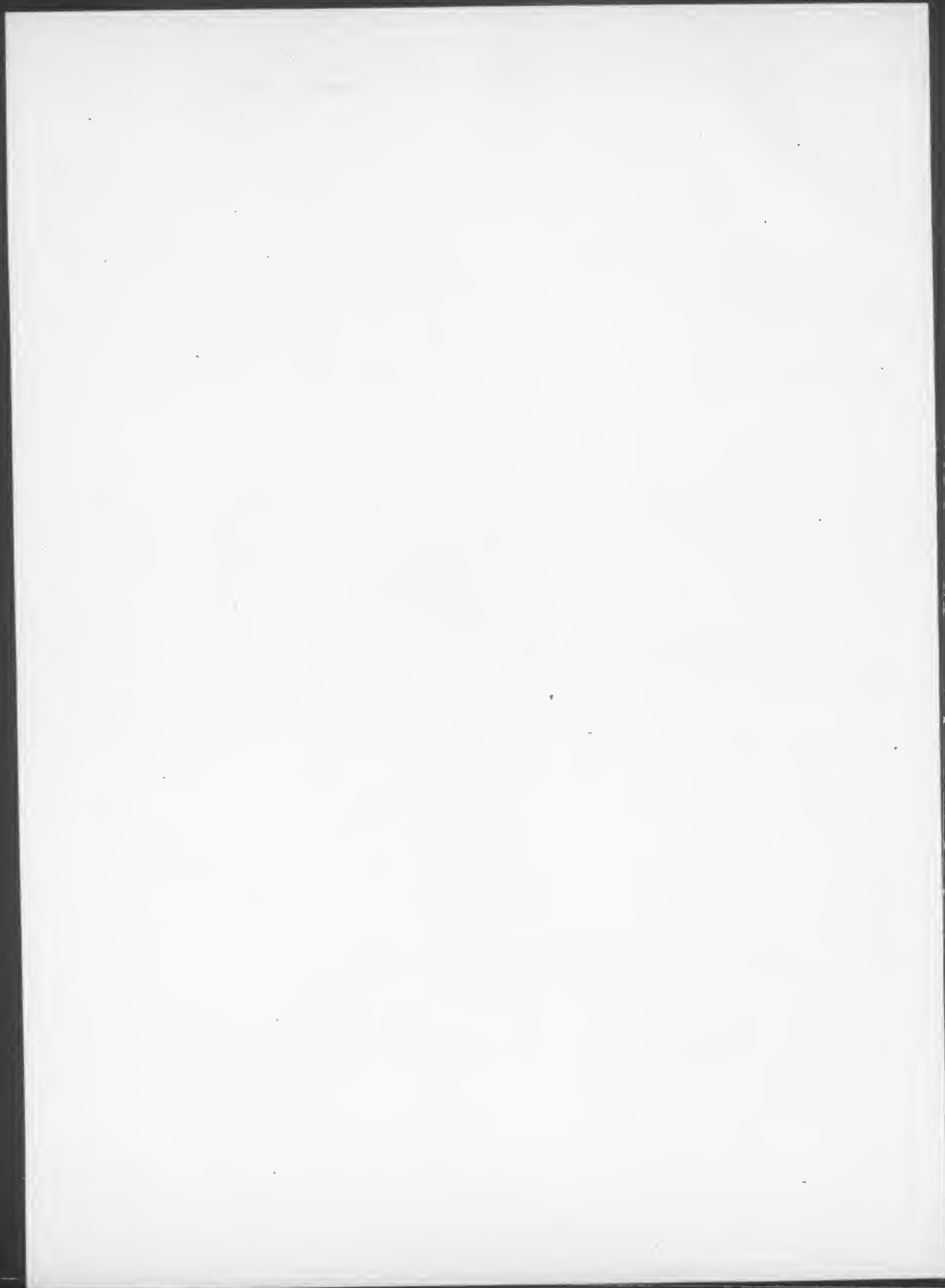
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Federal Register

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531 and 550

RIN 3206-AL61

Determining Rate of Basic Pay; Collection by Offset From Indebted Government Employees

AGENCY: U.S. Office of Personnel
Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing final regulations to conform with provisions of the National Defense Authorization Act for Fiscal Year 2008. The final regulations revise the rules regarding setting pay for certain employees who move from nonappropriated fund instrumentality (NAFI) positions to General Schedule positions. Also, the final regulations allow certain NAFIs to collect debts owed to them by Federal employees via salary offset and allow Federal agencies to collect debts by offsetting salary payments of certain NAFI employees.

DATES: The regulations are effective on June 22, 2009.

FOR FURTHER INFORMATION CONTACT: David Barash by telephone at (202) 606-2858; by fax at (202) 606-0824; or by e-mail at pay-performance-policy@opm.gov.

SUPPLEMENTARY INFORMATION: On August 27, 2008, the U.S. Office of Personnel Management (OPM) issued proposed regulations (73 FR 50575) to revise the rules regarding setting pay for certain employees who move from nonappropriated fund instrumentality (NAFI) positions to General Schedule (GS) positions. Also, the regulations proposed to allow certain NAFIs to collect debts owed to them by Federal employees via salary offset and allow Federal agencies to collect debts by offsetting salary payments of certain

NAFI employees. OPM issued the proposed regulations to conform with sections 652 and 1114 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181, January 28, 2008), hereafter referred to as "the Act." These sections became effective on January 28, 2008. (Note: We issued guidance, including examples, as a complement to the changes in law under section 1114 of the Act regarding pay setting. We encourage agencies and employees to review these materials on OPM's Web site at <http://www.opm.gov/oca/pay/HTML/NAFI.asp>.)

The 60-day comment period for the proposed regulations ended on October 27, 2008. This Federal Register notice addresses the one comment we received from an individual.

Comment Applicable to General Schedule Basic Pay Setting

The individual commented on the proposed revisions to the pay-setting rules. Proposed 5 CFR 531.216(c) provides that when an employee moves voluntarily to a GS position in the Department of Defense (DOD) or the United States Coast Guard (USCG) from a NAFI position in DOD or USCG, respectively, without a break in service of more than 3 days, the agency may set the employee's rate of basic pay above the minimum step based on the employee's NAFI highest previous rate (HPR). The agency also may use the maximum payable rate rule in § 531.221 based on a non-NAFI rate of basic pay if that rule produces a higher rate than using the employee's NAFI HPR.

Under § 531.216(d), when such an employee in DOD or USCG is moved involuntarily to a GS position from a NAFI position in DOD or USCG, respectively, without a break in service of more than 3 days, the employee is entitled to an initial payable rate of basic pay at the lowest step rate of the GS grade that is equal to or greater than the employee's rate of basic pay in the NAFI position immediately before the move.

The individual expressed concern about the additional costs for such pay-setting rules and believed that every move to a GS position will result in a pay increase. The individual recommended that OPM provide cost data.

We disagree and are not adopting this recommendation. Because of the small number of affected employees and the

limited conditions under which the pay-setting rules may be applied, the incrementally higher cost of setting pay under the revised rules is negligible. In addition, a covered NAFI employee would not necessarily receive a pay increase when he or she moves voluntarily to a GS position; his or her NAFI HPR could equal a GS step rate, for example, or the agency may set the employee's pay at any GS step rate below the employee's NAFI HPR or non-NAFI maximum payable rate.

The commenter also recommended that OPM revise the regulations to ensure that employees who move to pay banding positions do not receive a pay increase. This recommendation is outside of the scope of the regulations. The regulations provide the pay-setting rules for NAFI employees moving to GS positions, not NAFI employees moving to pay banding positions.

Therefore, we are adopting the proposed rule as final without a change.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 531 and 550

Administrative practice and procedure, Claims, Government employees, Law enforcement officers, Wages.

John Berry,
Director, U.S. Office of Personnel
Management.

■ Accordingly, OPM amends 5 CFR parts 531 and 550 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 103-89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also

issued under 5 U.S.C. 5304 and 5305; E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart B—Determining Rate of Basic Pay

■ 2. In § 531.216, paragraphs (a), (c)(1), (c)(2)(i), (c)(2)(ii), (d)(1), and (d)(2)(i) are revised to read as follows:

§ 531.216 Setting pay when an employee moves from a Department of Defense or Coast Guard nonappropriated fund instrumentality.

(a) *General.* This section governs the setting of pay for an employee who moves to a GS position in the Department of Defense or the Coast Guard from a position in a nonappropriated fund instrumentality (NAFI) (as described in 5 U.S.C. 2105(c)) of the Department of Defense or the Coast Guard, respectively, without a break in service of more than 3 days. If an employee moves from a NAFI position to a GS position with a break of more than 3 days or moves from a NAFI position in the Department of Defense or the Coast Guard to a GS position outside of the Department of Defense or the Coast Guard, respectively, the employee has no special conversion rights and this section does not apply.

* * * * *

(c) *Voluntary move.* (1) For a Department of Defense or Coast Guard employee who moves voluntarily, without a break in service of more than 3 days, from a NAFI position in the Department of Defense or the Coast Guard to a GS position in the Department of Defense or the Coast Guard, respectively, the agency may set the employee's initial payable rate of basic pay at the lowest step rate in the highest applicable rate range currently in effect for the employee's GS position of record and official worksite which equals or exceeds the employee's NAFI highest previous rate of pay, or any lower step rate, except as provided in paragraph (c)(2) or (3) of this section. The employee's initial payable rate of basic pay may not exceed the maximum step rate (step 10).

(2) * * *
(i) Compare the NAFI highest previous rate to the highest applicable rate range currently in effect in the location where the employee was stationed while earning that rate. The highest applicable rate range is determined based on the pay schedules that would be applicable to the employee's current GS position of record if the employee were stationed in that location. Identify the lowest step

rate in the highest applicable rate range that was equal to or exceeded the NAFI highest previous rate. If the NAFI highest previous rate is less than the range minimum, identify the minimum step rate (step 1). If the NAFI highest previous rate exceeds the range maximum, identify the maximum step rate (step 10).

(ii) Identify the step rate in the highest applicable rate range for the employee's current official worksite and position of record that corresponds to the step rate derived under paragraph (c)(2)(i) of this section. That corresponding rate is the maximum payable rate at which the agency may set the employee's pay under this section, except as provided by paragraph (c)(3) of this section. The agency may set the employee's rate of basic pay at any step rate that does not exceed that maximum payable rate.

* * * * *

(d) *Involuntary move.* (1) For a Department of Defense or Coast Guard employee who is moved involuntarily (as defined in paragraph (d)(3) of this section), without a break in service of more than 3 days, from a NAFI position in the Department of Defense or the Coast Guard to a GS position with substantially the same duties in the Department of Defense or the Coast Guard, respectively, the employee is entitled to an initial payable rate of basic pay at the lowest step rate of the grade that is equal to or greater than the employee's rate of basic pay in the NAFI position immediately before the move. If the employee's former NAFI rate exceeds the range maximum, identify the maximum step rate (step 10).

(2) * * *
(i) The lowest step rate within the highest applicable rate range for the employee's GS position of record and official worksite that equals or exceeds the employee's NAFI highest previous rate, or any lower step rate (consistent with the method prescribed in paragraphs (c)(1) and (2) of this section);

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart K—Collection by Offset From Indebted Government Employees

■ 3. The authority citation for subpart K of part 550 continues to read as follows:

Authority: 5 U.S.C. 5514; sec. 8(1) of E.O. 11609; redesignated in sec. 2-1 of E.O. 12107.

■ 4. In § 550.1103, the definition of agency is revised to read as follows:

§ 550.1103 Definitions.

* * * * *

Agency means an executive department or agency; a military department; the United States Postal Service; the Postal Regulatory Commission; any nonappropriated fund instrumentality described in 5 U.S.C. 2105(c); the United States Senate; the United States House of Representatives; any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government; or a Government corporation. If an agency under this definition is a component of an agency, the broader definition of *agency* may be used in applying the provisions of 5 U.S.C. 5514(b) (concerning the authority to prescribe regulations).

* * * * *

[FR Doc. E9-12006 Filed 5-21-09; 8:45 am]
BILLING CODE 6325-39-P

**DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration**

14 CFR Part 39

[Docket No. FAA-2009-0473; Directorate Identifier 2009-CE-027-AD; Amendment 39-15915; AD 2009-11-05]

RIN 2120-AA64

Airworthiness Directives; Air Tractor, Inc. Models AT-400, AT-400A, AT-402, AT-402A, AT-402B, AT-502, AT-502A, AT-502B, AT-503A, AT-602, AT-802, and AT-802A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) to supersede AD 2008-10-12, which applies to certain Air Tractor, Inc. AT-400, AT-500, AT-600, and AT-800 series airplanes. AD 2008-10-12 currently requires repetitively inspecting the engine mounts for cracks, repairing any crack damage found, and installing gussets as a terminating action for the repetitive inspections. This AD results from a report of a Model AT-602 airplane with a crack completely through the gusset that was installed as required in AD 2008-10-12. Consequently, this AD would require you to continue repetitively inspecting the engine mounts for cracks for all previously affected Air Tractor, Inc. AT-400, AT-500, AT-600, and AT-800 series airplanes with or without gussets installed, and repairing any crack damage found. We are issuing this AD to detect and correct cracks in the

engine mount, which could result in failure of the engine mount. This failure could lead to separation of the engine from the airplane.

DATES: This AD becomes effective on June 1, 2009.

As of June 12, 2008 (73 FR 25967, May 8, 2008), the Director of the Federal Register approved the incorporation by reference of Snow Engineering Co. Service Letter #253, Rev. C, dated April 17, 2008, listed in this AD.

We must receive any comments on this AD by July 21, 2009.

ADDRESSES: Use one of the following addresses to comment on this AD.

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

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

- *Mail:* U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564-5616; fax: (940) 564-5612; Internet: <http://www.airtractor.com>.

To view the comments to this AD, go to <http://www.regulations.gov>. The docket number is FAA-2009-0473; Directorate Identifier 2009-CE-027-AD.

FOR FURTHER INFORMATION CONTACT:

Andy McAnaul, Aerospace Engineer, FAA, San Antonio MIDO-43, 10100 Reunion Pl., Ste. 650, San Antonio, Texas 78216, telephone: (210) 308-3365, fax: (210) 308-3370; e-mail: andrew.mcanaul@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

On April 30, 2008, we issued AD 2008-10-12, Amendment 39-15518 (73 FR 25967) on certain Air Tractor, Inc. AT-400, AT-500, AT-600, and AT-800 series airplanes to supersede AD 2007-13-17.

AD 2007-13-17 required you to repetitively inspect the engine mount for any cracks, repair or replace any cracked engine mount, and report any cracks found to the FAA.

AD 2008-10-12 currently:

- Retains the inspection actions of AD 2007-13-17 for Models AT-602, AT-802, and AT-802A airplanes, including the compliance times and effective dates;

- Establishes new inspection actions for the AT-400 and AT-500 series airplanes;

- Incorporates a mandatory terminating action for all affected airplanes by installing gussets; and

- Terminates the reporting requirement of AD 2007-13-17.

Since issuing AD 2008-10-12, we received a report of a Model AT-602 airplane with a crack in the engine mount and completely through the gusset that was installed as a terminating action as required in AD 2008-10-12. This engine mount was reported as having a crack that was repaired as part of the gusset installation. The mount reportedly accumulated approximately 1,100 hours time-in-service since being modified with the gusset.

Air Tractor, Inc. believes that the crack may have been improperly repaired during installation of the gusset. Additional procedures may be necessary to adequately address inspection and repair of cracked engine mounts and assure proper installation of the gussets.

This condition, if not corrected, could result in failure of the engine mount. This failure could lead to separation of the engine from the airplane.

Relevant Service Information

Snow Engineering Co. Service Letter #253, Rev. C, dated April 17, 2008, specified in AD 2008-10-12 is still valid for this AD.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires repetitively inspecting the engine mounts for cracks and repairing any crack damage found.

Air Tractor is reviewing the information related to the occurrences referenced in this AD and may develop additional procedures to adequately address inspection and repair of cracked engine mounts and assure proper installation of the gussets that, when incorporated, would eliminate the need for the repetitive inspections required by this AD. The FAA will review any modification that is developed, determine whether it would eliminate the need for the requirements of this action, and then determine whether additional AD action is necessary.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in the engine mounts could result in failure of the engine mount. Such failure could lead to separation of the engine from the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA-2009-0473; Directorate Identifier 2009-CE-027-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the AD, the regulatory evaluation, any comments received, and other information 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 Docket Office (telephone (800) 647-5527) is located at the street address stated in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:
 Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2008-10-12; Amendment 39-15518 (73 FR 25967, May 8, 2008), and by adding a new AD to read as follows:

2009-11-05 Air Tractor, Inc.: Amendment 39-15915; Docket No. FAA-2009-0473; Directorate Identifier 2009-CE-027-AD.

Effective Date

(a) This AD becomes effective on June 1, 2009.

Affected ADs

(b) This AD supersedes AD 2008-10-12; Amendment 39-15518.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
AT-400, AT-400A, AT-402, AT-402A, and AT-402B	- 0001 through - 1175.
AT-502, AT-502A, AT-502B, and AT-503A	- 0001 through - 2597.
AT-602	- 0001 through - 1141.
AT-802 and AT-802A	- 0001 through - 0227.

Unsafe Condition

(d) This AD is the result of a report of a Model AT-602 airplane with a crack completely through the gusset that was installed as required in AD 2008-10-12. We

are issuing this AD to detect and correct cracks in the engine mount, which could result in failure of the engine mount. Such failure could lead to separation of the engine from the airplane.

Compliance

(e) Inspect the engine mount as follows using the service information in paragraph (i) of this AD:

Models	Compliance time without Gussets installed	Compliance time with Gussets installed
(1) For all Models AT-400, AT-400A, AT-402, AT-402A, AT-402B, AT-502, AT-502B, and AT-503A airplanes	Initially and repetitively as follows: (i) <i>With less than 5,000 hours time-in-service (TIS) on the airplane:</i> Initially within the next 12 months after June 12, 2008 (the effective date of AD 2008-10-12). Repetitively thereafter at intervals not to exceed every 12 months until accumulating 5,000 hours TIS; (ii) <i>With 5,000 hours TIS or more on the airplane:</i> Initially upon accumulating 5,000 hours TIS on the airplane or within the next 10 hours TIS after June 1, 2009 (the effective date of this AD), or within the next 100 hours TIS from the last inspection performed, whichever occurs later. Repetitively thereafter at intervals not to exceed every 100 hours TIS.	Initially and repetitively as follows: (A) <i>With less than 5,000 hours TIS on the airplane:</i> Initially within the next 12 months after June 1, 2009 (the effective date of this AD). Repetitively thereafter at intervals not to exceed every 12 months until accumulating 5,000 hours TIS; (B) <i>With 5,000 hours TIS or more on the airplane:</i> Initially upon accumulating 5,000 hours TIS on the airplane or within the next 10 hours TIS after June 1, 2009 (the effective date of this AD), or within the next 100 hours TIS from the last inspection performed, whichever occurs later. Repetitively thereafter at intervals not to exceed every 100 hours TIS.
(2) AT-502A	(i) <i>With less than 5,000 hours TIS on the airplane:</i> Initially upon accumulating 1,300 hours TIS on the airplane or within the next 100 hours TIS after June 12, 2008 (the effective date of AD 2008-10-12), whichever occurs later. Repetitively thereafter at intervals not to exceed every 300 hours TIS.	(i) <i>With less than 5,000 hours TIS on the airplane:</i> Initially upon accumulating 1,300 hours TIS on the airplane or within the next 100 hours TIS after June 1, 2009 (the effective date of this AD), whichever occurs later. Repetitively thereafter at intervals not to exceed every 300 hours TIS.

Models	Compliance time without Gussets installed	Compliance time with Gussets installed
(3) AT-602, AT-802, and AT-802A	<p>(ii) <i>With 5,000 hours TIS or more on the airplane:</i> Initially upon accumulating 5,000 hours TIS on the airplane or within the next 10 hours TIS after June 1, 2009 (the effective date of this AD), or within the next 100 hours TIS from the last inspection performed, whichever occurs later. Repetitively thereafter at intervals not to exceed every 1000 hours TIS.</p> <p>(i) <i>With less than 5,000 hours TIS on the airplane:</i> Initially upon accumulating 1,300 hours TIS on the airplane or within the next 100 hours TIS after August 10, 2007 (the effective date of AD 2007-13-17), whichever occurs later. Repetitively thereafter at intervals not to exceed every 300 hours TIS.</p> <p>(ii) <i>With 5,000 hours TIS or more on the airplane:</i> Initially upon accumulating 5,000 hours TIS on the airplane or within the next 10 hours TIS after June 1, 2009 (the effective date of this AD), or within the next 100 hours TIS from the last inspection performed, whichever occurs later. Repetitively thereafter at intervals not to exceed every 100 hours TIS.</p>	<p>(ii) <i>With 5,000 hours TIS or more on the airplane:</i> Initially upon accumulating 5,000 hours TIS on the airplane or within the next 10 hours TIS after June 1, 2009 (the effective date of this AD), or within the next 100 hours TIS from the last inspection performed, whichever occurs later. Repetitively thereafter at intervals not to exceed every 1000 hours TIS.</p> <p>(i) <i>With less than 5,000 hours TIS on the airplane:</i> Initially upon accumulating 1,300 hours TIS on the airplane or within the next 100 hours TIS after June 1, 2009 (the effective date of this AD), whichever occurs later. Repetitively thereafter at intervals not to exceed every 300 hours TIS.</p> <p>(ii) <i>With 5,000 hours TIS or more on the airplane:</i> Initially upon accumulating 5,000 hours TIS on the airplane or within the next 10 hours TIS after June 1, 2009 (the effective date of this AD), or within the next 100 hours TIS from the last inspection performed, whichever occurs later. Repetitively thereafter at intervals not to exceed every 100 hours TIS.</p>

(f) *For all airplanes:* Before further flight after any inspection required by paragraph (e)(1), (e)(2), and (e)(3) of this AD where crack damage is found, replace with a new engine mount or repair the engine mount.

(1) If choosing repair, return cracked mounts to Air Tractor, Inc. for repair or obtain FAA-approved written repair instructions coordinated with Air Tractor, Inc. before starting the repair.

(2) Contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564-5616; fax: (940) 564-5612; Internet: <http://www.airtractor.com>, for specific FAA-approved repair/replacement instructions.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Fort Worth Airplane 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: Andy McAnaul, Aerospace Engineer, ASW-150, FAA San Antonio MIDO-43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308-3365; fax: (210) 308-3370. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(h) AMOCs approved for AD 2008-10-12 are not approved for this AD.

Material Incorporated by Reference

(i) You must use Snow Engineering Co. Service Letter #253, Rev. C, dated April 17, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) As of June 12, 2008 (73 FR 25967), the Director of the Federal Register approved the incorporation by reference of Snow Engineering Co. Service Letter #253, Rev. C, dated April 17, 2008, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564-5616; fax: (940) 564-5612.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Kansas City, Missouri, on May 15, 2009.

Scott A. Horn,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-11902 Filed 5-21-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 734, 738, 740, 742, 743, 744, 746, 772 and 774

[Docket No. 0612242573-7104-01]

RIN 0694-AD71

Revisions to License Requirements and License Exception Eligibility for Certain Thermal Imaging Cameras and Foreign Made Military Commodities Incorporating Such Cameras

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule imposes a license requirement for certain exports and reexports of military commodities manufactured outside the United States that are not subject to the International Traffic in Arms Regulations, regardless of the level of U.S. origin content, if those military commodities incorporate certain thermal imaging cameras that are subject to the Export Administration Regulations. This rule also removes Commerce Control List (CCL) based export and reexport license requirements with respect to 36 destinations for certain thermal imaging cameras when they are not incorporated into military commodities and if they are not being exported or reexported to be embedded in a civil product. It imposes a semi-annual reporting requirement on the transactions from which it removes the CCL based license requirements. This rule limits use of License Exception APR for reexports of certain cameras controlled by Export Control Classification Number 6A003.b.4.b and certain foreign made military commodities incorporating such cameras. This rule imposes a license requirement for software used to increase the frame rate of certain cameras. BIS is making these changes in recognition of the emerging availability of these cameras around the world, the export licensing practices of other governments and the potential use of these cameras in military applications.

DATES: *Effective Date:* This rule is effective May 22, 2009.

Compliance Date: All reexports made ineligible for License Exception APR by this rule and exports or reexports for which this rule imposes a new license requirement must be in compliance with this rule no later than June 22, 2009.

FOR FURTHER INFORMATION CONTACT: John Varesi, Sensors and Aviation Division, Office of National Security and Technology Transfer Controls (202) 482-1114 or jvaresi@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Export Administration Regulations (EAR) impose license requirements on, among other things, imaging cameras incorporating non-space-qualified, non-linear (2-dimensional) infrared focal plane arrays, based on microbolometer material having individual elements with an unfiltered response in the wavelength range equal to or exceeding 8,000 nm but not exceeding 14,000 nm. Prior to publication of this rule, these cameras were listed on the Commerce Control List (CCL) with national security (NS column 2), regional stability (RS column 1), antiterrorism (AT column 1) and United Nations embargo (UN) reasons for control. The RS column 1 reason for control is the most restrictive of these controls, imposing a license requirement on exports and reexports to all destinations other than Canada. Prior to publication of this rule, all of these cameras were also eligible under License Exception APR for reexport from Country Group A:1 and cooperating countries to Country Group D:1, and for reexport to Country Group A:1 and cooperating countries as identified in Supplement No. 1 to part 740 of the EAR.

In light of the potential for these cameras to be used in military applications as well as the growing number of foreign suppliers and the export license policies of other governments with respect to the destinations that form major markets for thermal imaging cameras, a revision of CCL based license requirements on certain cameras is warranted.

These cameras have the potential for military application, including incorporation into military commodities in ways that significantly enhance the capabilities of the military commodity. Therefore, in this rule, BIS is asserting licensing jurisdiction over military commodities manufactured outside the United States that incorporate certain cameras that are listed on the CCL. This rule adopts a definition of military commodity that is based on the

Munitions List that is published by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WAML) and the United States Munitions List (22 CFR Part 121). However, to prevent redundant coverage, this military commodity provision does not apply to items that are controlled by Export Control Classification Numbers (ECCNs) that end in the numerals "018" because such ECCNs apply to items on the WAML and are already subject to the EAR. This rule also revises controls based on camera performance level as measured by the number of elements in the camera's focal plane array, its frame rate and whether the camera is being exported or reexported to be embedded in a civil product. A camera that incorporates a focal plane array with more elements generally can record more detail about an image than can an otherwise identical camera that incorporates an array with fewer elements. A camera with a higher frame rate generally can capture more detail about the path of a moving object and depict the motion of objects more smoothly than can an otherwise identical camera with a lower frame rate. Cameras that will be embedded in a civil product pose concerns that are difficult to resolve without knowing the type of civil product into which the camera will be embedded.

Changes Being Made by This Rule

Application of EAR to Military Commodities Not Otherwise Subject to the EAR or to the ITAR That Incorporate Certain Infrared Cameras

This rule makes the *de minimis* provisions of the EAR inapplicable to military commodities made outside the United States that are not subject to the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130) and that incorporate cameras that are described in ECCN 6A003.b.4.b.

The rule also imposes a regional stability (RS column 1) license requirement on such military commodities for reexport, thereby requiring a license to any destination other than Canada. However, this license requirement does not apply if the export or reexport is part of a military deployment by any unit of the government of Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia,

Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, the United Kingdom or the United States. Applications to reexport such military commodities will be reviewed in a manner that is consistent with the policies for similar military commodities that are subject to the ITAR.

The rule accomplishes these changes by revising § 734.4 to make foreign made military commodities containing ECCN 6A003.b.4.b cameras ineligible for *de minimis* treatment, by revising § 742.6(a)(2) to apply the RS column 1 license requirement and United States Munitions List licensing policy to military commodities controlled by ECCN 0A919, by revising § 772.1 adding a definition of "military commodity," and by revising Supplement No. 1 to part 774 to create a new ECCN 0A919 to apply to military commodities made outside the United States that are not subject to the ITAR. This rule also imposes anti-terrorism (AT Column 1) and United Nations (arms embargo, Rwanda) license requirements and licensing policy to military commodities controlled by ECCN 0A919.

This rule also revises the treatment of thermal imaging cameras that incorporate focal plane arrays as described below.

Retention of Current License Requirements and License Application Review Policy for the Higher Frame Rates and Number of Elements in the Cameras' Focal Plane Arrays and for Cameras Being Exported or Reexported To Be Embedded in a Civil Product

Thermal imaging cameras described in ECCN 6A003.b.4.b that have a frame rate greater than 60 Hz or that incorporate a focal plane array with more than 111,000 elements or that are being exported or reexported to be embedded in a civil product continue to be subject to NS column 2, RS column 1, AT column 1 and UN reasons for control. These cameras generally will continue to require a license based on CCL license requirements for all destinations other than Canada. This rule retains this license requirement through revised language to the RS column 1 license requirement paragraph in ECCN 6A003, applying that requirement to cameras in ECCN 6A003.b.4.b that have a frame rate greater than 60 Hz or a focal plane array with more than 111,000 elements or that are being exported or reexported to be embedded in a civil product. However, pursuant to this rule, BIS may issue licenses that remove the RS column 1 license requirement for cameras that are fully-packaged for use as consumer-

ready civil products for exports or reexports to Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

Removal of Commerce Control List Based License Requirements for 36 Countries and Revision of License Application Review Policy for Certain Other Countries for Cameras With Lower Frame Rates and Number of Elements in the Cameras' Focal Plane Arrays That Are Not Being Exported or Reexported To Be Embedded in a Civil Product

This rule removes all CCL based license requirements for cameras described in ECCN 6A003.b.4.b that incorporate focal plane arrays with not more than 111,000 elements and that have a frame rate of 60 Hz or less and that are not being exported or reexported to be embedded in a civil product when being exported or reexported to Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. Exports and reexports of the cameras to Canada will continue to have no Commerce Control List based license requirements.

In addition, pursuant to this rule, BIS may issue licenses that remove the RS column 1 license requirement for exports and reexports to authorized companies as named in the license for the purpose of embedding such camera into a completed product that will be distributed only in Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

This rule also revises license application review policy for cameras described in ECCN 6A003.b.4.b that incorporate focal plane arrays with not more than 111,000 elements and that have a frame rate of 60 Hz or less and

that are not being exported or reexported to be embedded in a civil product when such cameras are being exported or reexported to most destinations for which a license is required for regional stability reasons. Applications to export or reexport cameras incorporating a focal plane array with not more than 111,000 elements and a frame rate of 60 Hz or less and that are not being exported or reexported to be embedded in a civil product will be evaluated under the regional stability policy (RS column 2) set forth in § 742.6(b)(2) of the EAR, *i.e.*, "will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport would contribute significantly to the destabilization of the region to which the equipment is destined."

Imposition of Reporting Requirement

This rule imposes a new reporting requirement with respect to exports for which this rule's revision or removal of regional stability as a reason for control results in the removal of all CCL based license requirements. Exporters of cameras described in ECCN 6A003.b.4.b will have to report semiannually to BIS by e-mail the name, address and telephone number of the exporter; the date of each export; the name, address and telephone number of the consignee or end user; the model number(s); the serial number of each exported camera that has a serial number; and the quantity of each model number of camera exported without a license to Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. BIS will use the information in these reports to verify that the cameras subject to this regulation are continuing to be sold to appropriate end-users and that the changes in controls are not jeopardizing U.S. national security or foreign policy interests. The rule imposes this reporting requirement by adding a new § 743.3—Thermal Imaging Camera Reporting.

Limitation on Use of License Exception APR for Cameras in ECCN 6A003.b.4.b

This rule limits use of License Exception APR for cameras described in ECCN 6A003.b.4.b by making such cameras ineligible for reexport under paragraph (a) of License Exception APR, and limits their reexport under

paragraph (b) to destinations and for purposes for which they would not have a CCL based license requirement if exported from the United States. BIS is making this change to enable BIS to inform, via license conditions, the recipients of the reexports of the need to obtain a license for further reexports.

Revised Treatment of Cambodia and Laos With Respect to Paragraph (a) of License Exception APR

This rule revises the treatment of Cambodia and Laos as eligible destinations under License Exception APR. Although both countries are in Country Group D:1 and not in Country Group B, prior to publication of this rule, for purposes of License Exception APR, paragraph (a) they were treated as if the were in Country Group B (the items eligible for reexport under paragraph (a) of License Exception APR vary based on the country group in which the destination is located). Upon publication of this rule, they will be treated in the same manner as other members of Country Group D:1 BIS is making this change because current national security interests of the United States do not support such disparate treatment of countries in Country Group D:1.

New End-User and End-Use License Requirements

In recognition of the fact that these cameras could be used in military activities, this rule imposes a license requirement on exports and reexports to all destinations other than Canada, when the exporter or reexporter knows, at the time of export or reexport, that the item will be used by a military end-user or will be incorporated into a military commodity described in ECCN 0A919 as created by this rule. The rule defines military end-user as national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support "military end-uses" as defined in § 744.17(d).

This rule also imposes a license requirement if BIS informs an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for export or reexport of items described in ECCN 6A003.b.4.b to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to military end-users. Amendments to the EAR informing parties of such risk are in the form of amendments to the Entity List

(Supplement No. 4 to part 744 of the EAR).

Addition of Certain Cameras to the List of Items That Require a License for Export, Reexport or Transfer to Certain Military End Uses in China

Supplement No. 2 to part 744 of the EAR lists items for which § 744.21 of the EAR requires a license for the export, reexport or transfer to certain military end-uses in the People's Republic of China. This rule adds cameras controlled by ECCN 6A993 to Supplement No. 2 to part 744. BIS is taking this action consistent with United States Government policy of not supporting China's military modernization efforts.

Imposition of License Requirement for Software To Raise the Frame Rate of Cameras Above 9 Hz

This rule adds a new ECCN 6D994 to apply RS column 1 licensing requirement to software that is capable of increasing to more than 9 Hz, the frame rate of cameras that incorporate focal plane arrays controlled by 6A002.a.3.f. This new ECCN will allow BIS to impose a license requirement on software that could be used to raise the frame rate of previously exported cameras to a level equivalent to that of cameras that require a license for export.

Rulemaking Requirements

1. This rule is not a significant rule for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation contains a collection previously approved by the OMB under control numbers 0694-0088, (Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. BIS estimates that this rule will reduce the total burden hours

associated with this collection by 1,750 annually.

The reporting requirement for exports of cameras described in ECCN 6A3.b.4.b, imposed by this rule is a new collection of information. This new collection has been approved by OMB under control number 0694-0133. The estimated burden associated with this new collection is 60 hours annually.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Parts 738 and 772

Exports.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Parts 746 and 774

Exports, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for part 730 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p.208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of July 23, 2008, 73 FR 43603 [July 25, 2008]; Notice of November 10, 2008, 73 FR 67097 (November 12, 2008).

■ 2. Supplement No. 1 to part 730 is amended by adding to the table immediately following the entry for collection number 0694-0132 and immediately preceding the entry for 0964-0134, the following new entry.

**Supplement No. 1 to Part 730—
Information Collection Requirements
Under the Paperwork Reduction Act:
OMB Control Numbers**

* * * * *

Collection No.	Title	Reference in the EAR
0694-0133	Thermal Imaging Camera Reporting	§ 743.3

PART 734—[AMENDED]

■ 3. The authority citation for part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 10, 2008, 73 FR 67097 (November 12, 2008).

■ 4. Section 734.4 is amended by redesignating paragraph (a)(5) as paragraph (a)(6) and adding a new paragraph (a)(5) to read as follows:

§ 734.4 De Minimis U.S. content.

(a) * * *

(5) There is no *de minimis* level for foreign made military commodities that incorporate cameras classified under ECCN 6A003.b.4.b if such cameras would be subject to the EAR as separate items and if the foreign made military commodity is not subject to the International Traffic in Arms Regulations (22 U.S.C. Parts 120–130).

* * * * *

PART 738—[AMENDED]

■ 5. The authority citation for part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 6. In Supplement No. 1 to part 738, The Commerce Country Chart, add:

- a. References to footnote number 2 in the rows for Cyprus, Malta and South Africa,
- b. References to footnote number 3 in the rows for Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, South, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia,

Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, and United Kingdom.

■ c. References to footnote number 4 in rows for the countries Austria, Cyprus, Finland, Ireland, Korea, South, Malta, South Africa, Sweden, and Switzerland; and

■ d. New footnotes 2 through 4 to the table to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

* * * * *

² See § 742.4(a) for special provisions that apply to exports and reexports to these countries of certain thermal imaging cameras.

³ See § 742.6(a)(3) for special provisions that apply to military commodities that are subject to ECCN 0A919.

⁴ See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

PART 740—[AMENDED]

■ 7. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Public Law 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 8. Section 740.2 is amended by adding paragraph (a)(11) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(11) The item is a “military commodity” subject to ECCN 0A919, except that such military commodities may be reexported in accordance with § 740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. Government).

* * * * *

■ 9. Section 740.16 is amended by revising paragraph (a)(2), paragraph (a)(3)(i), paragraph (a)(3)(ii) and paragraph (b) to read as follows:

§ 740.16 Additional permissive reexports (APR).

* * * * *

(a) * * *

(2) The commodities being reexported are not controlled for NP, CB, MT, SI or

CC reasons and are not military commodities described in ECCN 0A919 or cameras described in ECCN 6A003.b.4.b; and

(3) * * *

(i) A country in Country Group B that is not also included in Country Group D:2, D:3, or D:4; and the commodity being reexported is both controlled for national security reasons and not controlled for export to Country Group A:1; or

(ii) A country in Country Group D:1 (National Security) (see Supplement No. 1 to part 740), other than North Korea and the commodity being reexported is controlled for national security reasons.

(b) *Reexports to and among specified countries.* (1) Commodities that are not controlled for nuclear nonproliferation or missile technology reasons and that are not listed in paragraph (b)(2) or (b)(3) of this section may be reexported to and among Country Group A:1 and cooperating countries, provided that eligible commodities are for use or consumption within a Country Group A:1 (see Supplement No. 1 to part 740) or cooperating country, or for reexport from such country in accordance with other provisions of the EAR. * * *

(2) Except as provided in paragraph (b)(3) of this section, cameras described in ECCN 6A003.b.4.b and “military commodities” described in ECCN 0A919 may not be exported under this paragraph (b).

(3) Cameras described in ECCN 6A003.b.4.b may be exported or reexported to and among: Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom if:

(i) Such cameras are fully packaged for use as consumer ready civil products; or, (ii) Such cameras with not more than 111,000 elements are to be embedded in civil products.

* * * * *

PART 742—[AMENDED]

■ 10. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec 1503, Public Law 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 10, 2008, 73 FR 67097 (November 12, 2008).

■ 11. Section 742.4 is amended by revising the third sentence of paragraph (a) and by adding a new sentence immediately following that third sentence to read as follows:

§ 742.4 National security.

(a) * * * A license is required to all destinations except Country Group A:1 and cooperating countries (see Supplement No. 1 to part 740), Bulgaria, Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia for all items in ECCNs on the CCL that include NS column 2 in the Commerce Country Chart column of the "License Requirements" section except those cameras in ECCN 6A003.b.4.b that have a focal plane array with 111,000 or fewer elements and a frame rate of 60 Hz or less. A license is required to all destinations except Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom for those cameras in ECCN 6A003.b.4.b that have a focal plane array with 111,000 or fewer elements and a frame rate of 60 Hz or less and for cameras being exported or reexported pursuant to an authorization described in § 742.6(a)(2)(iii) or (v) of the EAR. * * *

* * * * *

■ 12. Section § 742.6 is amended by revising paragraph (a) and paragraph (b)(1) and paragraph (b)(2) to read as follows:

§ 742.6 Regional stability.

(a) *License requirements.* The following controls are maintained in

support of U.S. foreign policy to maintain regional stability:

(1) *RS Column 1 License Requirements in General.* As indicated in the CCL and in RS column 1 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 6A002.a.1, a.2, a.3, .c, or .e; 6A003.b.3, and b.4.a; 6A008.j.1; 6A998.b; 6D001 (only "software" for the "development" or "production" of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D002 (only "software" for the "use" of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D991 (only "software" for the "development," "production," or "use" of equipment controlled by 6A002.e or 6A998.b); 6E001 (only technology" for "development" of items in 6A002.a.1, a.2, a.3 (except 6A002.a.3.d.2.a and 6A002.a.3.e for lead selenide focal plane arrays), and .c or .e, 6A003.b.3 and b.4, or 6A008.j.1); 6E002 (only "technology" for "production" of items in 6A002.a.1, a.2, a.3, .c, or .e, 6A003.b.3 or b.4, or 6A008.j.1); 6E991 (only "technology" for the "development," "production," or "use" of equipment controlled by 6A998.b); 6D994; 7A994 (only QRS11–00100–100/101 and QRS11–0050–443/569 Micromachined Angular Rate Sensors); 7D001 (only "software" for "development" or "production" of items in 7A001, 7A002, or 7A003); 7E001 (only "technology" for the "development" of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E002 (only "technology" for the "production" of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E101 (only "technology" for the "use" of inertial navigation systems, inertial equipment, and specially designed components for civil aircraft).

(2) *Special RS Column 1 license requirements applicable to certain thermal imaging cameras.*

(i) As indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003.b.4.b require a license to all destinations other than Canada if such cameras have a frame rate greater than 60 Hz.

(ii) Except as noted in paragraph (a)(2)(iii) of this section, as indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003.b.4.b require a license to all destinations other than Canada if such cameras incorporate a focal plane array with more than 111,000 elements and a frame rate of 60

Hz or less, or cameras described in 6A003.b.4.b that are being exported or reexported to be embedded in a civil product.

(iii) BIS may issue licenses for cameras subject to the license requirement of paragraph (a)(2)(ii) of this section that are fully-packaged for use as consumer-ready civil products that, in addition to the specific transactions authorized by such license, authorize exports and reexports of such cameras without a license to any civil end-user to whom such exports or reexport are not otherwise prohibited by U.S. law in Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. The license requirements of this paragraph (a)(2) shall not apply to exports or reexports so authorized. In this paragraph, the term "civil end-user" means any entity that is not a national armed service (army, navy, marine, air force, or coast guard), national guard, national police, government intelligence organization or government reconnaissance organization, or any person or entity whose actions or functions are intended to support "military end-uses" as defined in 744.17(d).

(iv) Except as noted in paragraph (a)(2)(v) of this section, as indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003.b.4.b require a license to all destinations other than Canada if such cameras incorporate a focal plane array with 111,000 elements or less and a frame rate of 60 Hz or less and are being exported or reexported to be embedded in a civil product.

(v) BIS may also issue licenses for the cameras described in paragraph (a)(2)(iv) that, in addition to the specific transactions authorized by such license, authorize exports and reexports to authorized companies described in the license for the purpose of embedding such cameras into a completed product that will be distributed only in Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. The

license requirements of this paragraph (a)(2) shall not apply to exports or reexports so authorized. In this paragraph, the term "authorized companies" means companies that have been previously licensed for export, are not the subject of relevant negative intelligence or open source information, have not been the subject of a Department of Commerce or Department of State enforcement action within the past two years, have demonstrable production capacity, and do not pose an unacceptable risk of diversion.

(3) *Special RS Column 1 license requirement applicable to military commodities.* A license is required for reexports to all destinations except Canada for items classified under ECCN 0A919 except when such items are being reexported as part of a military deployment by a unit of the government of Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, the United Kingdom or the United States.

(4) *RS Column 2 license requirements.*
 (i) *License Requirements Applicable to Most RS Column 2 Items.* As indicated in the CCL and in RS Column 2 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to any destination except Australia, Japan, New Zealand, and countries in the North Atlantic Treaty Organization (NATO) for items described on the CCL under ECCNs 0A918, 0E918, 2A983, 2D983, 2E983, 8A918, and for military vehicles and certain commodities (specially designed) used to manufacture military equipment, described on the CCL in ECCNs 0A018.c, 1B018.a, 2B018, 9A018.a and .b, 9D018 (only software for the "use" of commodities in ECCN 9A018.a and .b), and 9E018 (only technology for the "development", "production", or "use" of commodities in 9A018.a and .b).

(ii) *Special RS Column 2 license requirements applicable only to certain cameras.* As indicated by the CCL, and RS column 2 and footnote number 4 to the Commerce Country Chart, a license is required to any destination except Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland,

Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom for fully-packaged thermal imaging cameras for use as consumer-ready civil products controlled by 6A003.b.4.b when incorporating "focal plane arrays" that have not more than 111,000 elements and a frame rate of 60 Hz or less and that are not being exported or reexported to be embedded in a civil product.

(5) *RS requirements that apply to Iraq.* As indicated on the CCL, a license is required for the export or reexport to Iraq or transfer within Iraq of the following items controlled for RS reasons on the CCL: 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992. The Commerce Country Chart is not designed to determine RS licensing requirements for these ECCNs.

(6) *RS requirement that applies to Hong Kong.* A license is required to export or reexport to Hong Kong any item controlled in ECCN 6A003.b.4.b

(b) * * *

(1) Applications for exports and reexports described in paragraph (a)(1), (a)(2) or (a)(6) of this section will be reviewed on a case-by-case basis to determine whether the export or reexport could contribute directly or indirectly to any country's military capabilities in a manner that would alter or destabilize a region's military balance contrary to the foreign policy interests of the United States. Applications for reexports of items described in paragraph (a)(3) of this section will be reviewed applying the policies for similar commodities that are subject to the International Traffic in Arms Regulations (22 CFR Parts 120-130).

(2) Applications to export and reexport commodities described in paragraph (a)(4) of this section will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport would contribute significantly to the destabilization of the region to which the equipment is destined.

* * * * *

PART 743—[AMENDED]

■ 13. The authority citation for part 743 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; Public Law 106-508; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 14. Add § 743.3 to read as follows:

§ 743.3 Thermal imaging camera reporting.

(a) *General requirement.* Exports of thermal imaging cameras must be reported to BIS as provided in this section.

(b) *Transactions to be reported.* Exports that are not authorized by an individually validated license of thermal imaging cameras controlled by ECCN 6A003.b.4.b to Australia, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, or the United Kingdom must be reported to BIS.

(c) *Party responsible for reporting.* The exporter as defined in § 772.1 of the EAR must ensure the reports required by this section are submitted to BIS.

(d) *Information to be included in the reports.* For each export described in paragraph (b) of this section, the report must identify: the name, address, and telephone number of the exporter; the date of each export; the name, address and telephone number of the consignee or end user; the model number(s) of each camera exported; the serial number of each exported camera that has a serial number; and the quantity of each model number of camera exported. (Note: Technical specifications may be requested on an as needed basis and must be provided to BIS after any such request.)

(e) *Where to submit reports.* Submit the reports via e-mail to UTICreport@bis.doc.gov.

(d) *Reporting periods and due dates.* This reporting requirement applies to exports made on or after May 22, 2009. Exports must be reported within one month of the reporting period in which the export takes place. The first reporting period begins on May 22, 2009 and runs through June 30, 2009. Subsequent reporting periods shall begin on January 1 and July 1 of each year, and shall run through June 30, and December 31 respectively. Exports in each reporting period must be reported to BIS no later than the last day of the month following the month in which the reporting period ends.

PART 744—[AMENDED]

■ 15. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR,

1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 10, 2008, 73 FR 67097 (November 12, 2008).

■ 16. Add § 744.9 to read as follows:

§ 744.9 Restrictions on certain exports and reexports of cameras controlled by ECCN 6A003.b.4.b.

(a) *General prohibitions.* In addition to the applicable license requirements for national security, regional stability, anti-terrorism and United Nations embargo reasons in §§ 742.4, 742.6, 742.8, 746.3 and 746.8 of the EAR, a license is required to export or reexport to any destination other than Canada cameras described in ECCN 6A003.b.4.b if at the time of export or reexport, the exporter or reexporter knows or is informed that the item will be or is intended to be:

(1) Used by a "military end-user," as defined in paragraph (d) of this section; or

(2) Incorporated into a "military commodity" controlled by ECCN 0A919.

(b) *Additional prohibition on exporters or reexporters informed by BIS.* BIS may inform an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for the export or reexport of items described in ECCN 6A003.b.4.b to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the users or unauthorized incorporation into the "military commodities" described in paragraph (a) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration.

(c) *License review standard.* Applications for licenses required by this section will be reviewed by applying the policies that would be applied under the International Traffic in Arms Regulations (22 CFR Parts 120-130).

(d) *Military end-user.* In this section, the term "military end-user" means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national

police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support "military end-uses" as defined in § 744.17(d).

(e) *Exception.* Shipments subject to the prohibitions in paragraphs (a) and (b) of this section that are consigned to and for the official use of the U.S. Government authorized pursuant to § 740.11(b)(2)(ii) of the EAR may be made under License Exception GOV. No other license exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

■ 17. In Supplement No. 2 to part 744, add a paragraph (6)(iii) to read as follows:

Supplement No. 2 to Part 744—List of Items Subject to the Military End-Use License Requirement of § 744.21

* * * * *

(6) *Category 6—Sensors and Lasers* * * *
 (iii) 6A993 Cameras, not controlled by 6A003 or 6A203 as follows (see List of Items Controlled). * * *

PART 746—[AMENDED]

■ 18. The authority citation for part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Public Law 108-11, 117 Stat. 559; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003. 68 FR 26459, May 16, 2003; Presidential Determination 2007-7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 19. Section 746.8, paragraph (b)(1) is amended by adding a new sentence immediately following the existing third sentence to read as follows:

§ 746.8 Rwanda.

* * * * *

(b) * * *
 (1) * * * Any U.S. person needs a license to reexport any item controlled by ECCN 0A919 to Rwanda. * * *

PART 772—[AMENDED]

■ 21. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 22. Section 772.1 is amended by adding, in alphabetical order, a

definition for "military commodity" to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Military commodity. As used in § 734.4(a)(5), Supplement No. 1 to part 738 (footnote No. 3), § 740.2(a)(11), § 740.16(a)(2), § 740.16(b)(2), § 742.6(a)(3), § 744.9(a)(2), § 744.9(b), ECCN 0A919 and ECCN 6A003 (*Related Controls*), "military commodity" or "military commodities" means an article, material or supply except software or technology that is described on the United States Munitions List (22 CFR Part 121) or on the Munitions List that is published by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, but does not include any item listed in any Export Control Classification Number for which the last three numerals are 018.

* * * * *

PART 774—[AMENDED]

■ 23. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 24. In Supplement No. 1 to part 774, Category 0, immediately following Export Control Classification Number 0A918 and immediately preceding Export Control Classification Number 0A978 add an Export Control Classification Number 0A919 to read as follows:

0A919 "Military commodities" as follows (see list of items controlled).

License Requirements

Reasons for Control: RS, AT, UN.

<i>Control(s)</i>	<i>Country chart</i>
RS applies to entire entry	RS Column 1.
AT applies to entire entry	AT Column 1.
UN applies to entire entry	Rwanda § 746.7 of the EAR.

License Exceptions

LVS: N/A.
 GBS: N/A.
 CIV: N/A.

List of Items Controlled

Unit: \$ value.

Related Controls: (1) Military commodities are subject to the export licensing jurisdiction of the Department of State if they incorporate items that are subject to the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120–130). (2) Military commodities described in this paragraph are subject to the export licensing jurisdiction of the Department of State if such commodities are described on the United States Munitions List (22 CFR Part 121) and are in the United States. (3) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles that are subject to the ITAR; or the furnishing to foreign persons of

any technical data controlled under 22 CFR 121.1 whether in the United States or abroad are under the licensing jurisdiction of the Department of State. (4) Brokering activities (as defined in 22 CFR 129.9) of military commodities that are subject to the ITAR are under the licensing jurisdiction of the Department of State.

Related Definitions: N/A.

Items: “Military commodities” with all of the following characteristics:

a. Described on either the United States Munitions List (22 CFR Part 121) or the Munitions List that is published by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (as set out on its Web site at <http://www.wassenaar.org>), but not any item listed in any Export Control

Classification Number for which the last three characters are 018;

b. Produced outside the United States;

c. Not subject to the International Traffic in Arms Regulations (22 CFR Parts 120–130) for a reason other than presence in the United States; and

d. Incorporate one or more cameras controlled under ECCN 6A003.b.4.b.

■ 25. In Supplement No. 1 to part 774, Category 6, Export Control Classification Number 6A003, revise the “Reason for Control” and the “Related Controls” paragraphs to read as follows:

6A003 Cameras.

License Requirements

Reason for Control: NS, NP, RS, AT, UN.

<i>Control(s)</i>	<i>Country chart</i>
NS applies to entire entry	NS Column 2.
NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4	NP Column 1.
RS applies to items controlled in 6A003.b.3, to items controlled in 6A003.b.4.a, and to items controlled in 6A003.b.4.b that have a frame rate greater than 60 Hz or that incorporate a focal plane array with more than 111,000 elements, or to items in 6A003.b.4.b when being exported or reexported to be embedded in a civil product. (But see § 742.6(a)(2)(iii) and (v) for certain exemptions).	RS Column 1.
RS applies to items controlled in 6A003.b.4.b that have a frame rate of 60 Hz or less and that incorporate a focal plane array with not more than 111,000 elements if not being exported or re-exported to be embedded in a civil product.	RS Column 2.
RS applies to items controlled in 6A003.b.4.b	A license is required to export or reexport these items to Hong Kong. This license requirement does not appear in the Commerce Country Chart.
AT applies to entire entry	AT Column 1.
UN applies to items controlled in 6A003.b.3 and b.4	Iraq and Rwanda.

License Exceptions

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) See ECCNs 6E001 (“development”), 6E002 (“production”), and 6E201 (“use”) for technology for items controlled under this entry. (2) Also see ECCN 6A203. (3) See ECCN 8A002.d and .e for cameras specially designed or modified for underwater use. (4) See ECCN 0A919 for foreign made military commodities that incorporate cameras described in 6A003.b.4.b. (5) Section 744.9 imposes license requirements on cameras described in 6A003.b.4.b if being exported for incorporation into an item controlled by ECCN 0A919 or for a military end-user.

* * * * *

■ 26. In Supplement No. 1 to part 774, immediately following Export Control Classification Number 6D993, add a new Export Control Classification Number 6D994 to read as follows:

6D994 “Software” designed or modified for cameras incorporating “focal plane arrays” specified by 6A002.a.3.f and designed or modified to remove a frame rate restriction and allow the camera to exceed the frame rate specified in 6A003.b.4. Note 3.a.

License Requirements

Reason for Control: RS.

Control(s) *Country chart*

RS applies to entire entry RS Column 1.

License Exceptions

CIV: N/A.

TSR: N/A.

List of Items Controlled

Unit: \$ value.

Items: The list of Items Controlled is in the ECCN heading.

Dated: May 18, 2009.

Matthew S. Borman,

Acting Assistant Secretary for Export Administration.

[FR Doc. E9–11951 Filed 5–21–09; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection Bureau

DEPARTMENT OF THE TREASURY

19 CFR Part 10

[Docket No. USCBP–2009–0015; CBP Dec. 09–17]

RIN 1505–AC13

Imported Directly Requirement Under the United States-Bahrain Free Trade Agreement

AGENCY: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim final rule; solicitation of comments.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations in title 19 of the Code of Federal Regulations (19 CFR) on an interim basis to change certain provisions relating to the requirement under the United States-Bahrain Free Trade Agreement (BFTA) that a good must be “imported directly” from one

BFTA Party to the other Party to qualify for preferential tariff treatment. The change involves removing the condition that a good passing through the territory of an intermediate country while en route from a Party to the other Party must remain under the control of the customs authority of the intermediate country. This change more closely conforms these regulatory provisions to the BFTA and the BFTA implementing statute.

DATES: This interim final rule is effective May 22, 2009. Comments must be received on or before July 21, 2009.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2009-0015.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC 20229-1179.

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

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

FOR FURTHER INFORMATION CONTACT: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325-0041.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim

final rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim final rule. Comments that will provide the most assistance to CBP will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

Background

On September 14, 2004, the United States and the Kingdom of Bahrain (the Parties) signed the U.S.-Bahrain Free Trade Agreement (BFTA). The provisions of the BFTA were adopted by the United States with the enactment on January 11, 2006, of the United States-Bahrain Free Trade Area Implementation Act (the Act), Public Law 109-169, 119 Stat. 3581 (19 U.S.C. 3805 note).

On October 16, 2007, CBP published CBP Dec. 07-81 in the **Federal Register** (72 FR 58511), setting forth interim amendments to implement the preferential tariff treatment and customs-related provisions of the BFTA. The majority of the BFTA implementing regulations were included within new subpart N in part 10 of the CBP regulations (19 CFR subpart N, part 10). In CBP Dec. 08-23, published in the **Federal Register** on July 23, 2008 (73 FR 42679), CBP adopted the interim regulations set forth in CBP Dec. 07-81 as a final rule with two technical corrections.

Section 10.817(a) of the CBP regulations implementing the BFTA sets forth the basic requirement, found in Article 4.1 of the BFTA, that a good must be "imported directly" from the territory of a Party into the territory of the other Party to qualify as an originating good under the BFTA. In circumstances in which a shipment passes through the territory of a non-Party, § 10.817(a)(2) provides that a good will be considered to be "imported directly" only if the good: (i) Remained under the control of the customs authority of the non-Party; and (ii) did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than certain specified minor operations. Nearly identical language to that found in § 10.817(a) appears in § 10.822(a), relating to the application of the "imported directly" requirement to certain non-originating textile and apparel goods that qualify for preferential tariff treatment under an applicable tariff preference level (TPL).

Article 4.9 of the BFTA provides that a good shall not be considered to be "imported directly" from the territory of the other Party if the good undergoes subsequent production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of the other Party. Section 202(g) of the Act mirrors the language in Article 4.9 of the Agreement. Neither the BFTA nor the Act includes a requirement that a good must remain under the control of the customs authority of a non-Party to qualify as having met the "imported directly" requirement when the good passes through the territory of a non-Party.

Explanation of Amendments

It has been brought to the attention of CBP that there is no explicit requirement in the BFTA or the Act that a good must remain under the control of the customs authority of a non-Party to qualify as having been "imported directly" from a Party. Therefore, to more closely conform paragraph (a)(2) of §§ 10.817 and 10.822 to the Agreement and the Act, these regulatory provisions have been revised in this interim rule document to remove the "customs control" requirement. Specifically, paragraph (a)(2)(i) of §§ 10.817 and 10.822 has been removed and text of current paragraph (a)(2)(ii) of §§ 10.817 and 10.822 has been incorporated into the paragraph (a)(2) introductory text of these sections.

CBP notes that these changes provide consistency between the BFTA implementing regulations and the CBP regulations implementing the United States-Morocco Free Trade Agreement (MFTA) relating to the "imported directly" requirement under these two FTAs. The language in the BFTA and MFTA and the two implementing statutes are nearly identical in regard to this requirement.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment

procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim amendments involve a foreign affairs function of the United States because they modify regulatory provisions that implement preferential tariff treatment provisions under the BFTA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all comments received before issuing a final rule.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and, therefore, is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required under the APA for the reasons described above, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Exports, Imports, Preference programs, Trade agreements.

Amendments to the CBP Regulations

■ Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10 and the specific authority for subpart N continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the

United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Section 10.801 through 10.829 also issued under 19 U.S.C. 1202 (General Note 30, HTSUS) and Pub. L. 109–169, 119 Stat. 3581 (19 U.S.C. 3805 note).

■ 2. Section 10.817 is amended by revising paragraph (a)(2) to read as follows:

§ 10.817 Imported directly.

(a) * * *

(2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be “imported directly” only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a Party.

* * * * *

■ 3. Section 10.822 is amended by revising paragraph (a)(2) to read as follows:

§ 10.822 Transshipment of non-originating fabric or apparel goods.

(a) * * *

(2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be “imported directly” only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units

of the good, or to transport the good to the territory of a Party.

* * * * *

Approved: May 19, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. E9–11986 Filed 5–21–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

RIN 1210–AB13

Investment Advice—Participants and Beneficiaries

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Final rule; delay of effective date and applicability date.

SUMMARY: This document delays the effective and applicability dates of final rules under the Employee Retirement Income Security Act, and parallel provisions of the Internal Revenue Code of 1986, relating to the provision of investment advice to participants and beneficiaries in individual account plans, such as 401(k) plans, and beneficiaries of individual retirement accounts (and certain similar plans). These rules were published in the *Federal Register* on January 21, 2009, and were to have become effective and applicable on March 23, 2009, but were delayed until May 22, 2009, by a final rule published on March 20, 2009 (74 FR 11847). This document further delays the effective and applicability dates of these final rules from May 22, 2009, until November 18, 2009, to allow additional time for the Department to evaluate questions of law and policy concerning the rules.

DATES: The effective and applicability date of the rule amending 29 CFR part 2550, published January 21, 2009, at 74 FR 3822, delayed March 20, 2009, at 74 FR 11847 is further delayed until November 18, 2009.

FOR FURTHER INFORMATION CONTACT: Fred Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On January 21, 2009, the Department of Labor published final rules on the

provision of investment advice to participants and beneficiaries of participant-directed individual account plans and to beneficiaries of individual retirement accounts (74 FR 3822). The rules contain regulations implementing a statutory prohibited transaction exemption under ERISA Section 408(b)(14) and Section 408(g) and an administrative class exemption granting additional relief. As published, these rules were to be effective on March 23, 2009. Paragraph (g) of Section 2550.408g-1 provided that the rule would apply to covered transactions occurring on or after March 23, 2009.

By memorandum dated January 20, 2009, Rahm Emanuel, Assistant to the President and Chief of Staff, directed Agency Heads to consider extending for 60 days the effective date of regulations that have been published in the **Federal Register** but not yet taken effect. The memorandum further advised that, where such regulations are extended, agencies should allow 30 days for interested persons to comment on issues of law and policy raised by the rules. In accordance with that memorandum, and taking into account the considerations listed in the Memorandum of January 21, 2009, from Peter R. Orszag, Director of the Office of Management and Budget, the Department published in the **Federal Register** on February 4, 2009, a document seeking comment on a proposed 60 day extension to the effective dates for these rules until May 22, 2009, and a proposed conforming amendment to the applicability date of Section 2550.408g-1 (74 FR 6007). The document also requested comment on issues of law and policy raised by the final rules. The Department indicated that upon completion of its review, it might decide to allow the rules to take effect, issue a further extension, withdraw the rules, or propose amendments. The comment period on the proposed extension ended on February 18, 2009. The comment period on issues of law and policy concerning the final rules ended on March 6, 2009. In response, the Department received 27 comment letters.¹ A number of these comments expressed the view that the final rules raise significant issues of law and policy. Among these, some expressed disagreement with the final rules' interpretation of the statutory exemption, and further questioned the adequacy of the class exemption's conditions in mitigating against the

potential for investment adviser self-dealing.

On March 20, 2009, the Department published in the **Federal Register** a document adopting the proposed 60 day delay of the effective and applicability date of the final rule published on January 21, 2009, for agency review of questions of law and policy raised by commenters (74 FR 11847). The Department believes that the complexity and significance of the issues involved justify delaying the effective and applicability dates of the final rule for an additional 180 days in order to afford the Department time for further review. Accordingly, the Department is adopting herein a 180 day delay of the effective and applicability date of the final rule published on January 21, 2009. With the adoption of this delay, the effective and applicability dates of the final rule will be November 18, 2009.

List of Subjects in 29 CFR Part 2550

Employee benefit plans, Exemptions, Fiduciaries, Investments, Pensions, Prohibited transactions, Reporting and recordkeeping requirements, and Securities.

■ For the reasons set forth above, the publication on January 21, 2009 (74 FR 3822), of the final rule amending 29 CFR Part 2550, is further amended as follows:

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

■ 1. The authority citation for part 2550 is revised to read as follows:

Authority: 29 U.S.C. 1135; and Secretary of Labor's Order No. 6-2009, 74 FR 21524 (May 7, 2009). Secs. 2550.401b-1, 2550.408b-1, 2550.408b-19, 2550.408g-1, and 2550.408g-2 also issued under sec. 102, Reorganization Plan No. 4 of 1978, 5 U.S.C. App. Sec. 2550.401c-1 also issued under 29 U.S.C. 1101. Sections 2550.404c-1 and 2550.404c-5 also issued under 29 U.S.C. 1104. Sec. 2550.407c-3 also issued under 29 U.S.C. 1107. Sec. 2550.404a-2 also issued under 26 U.S.C. 401 note (sec. 657(c)(2)), Pub. L. 107-16, 115 Stat. 38, 136 (2001)). Sec. 2550.408b-1 also issued under 29 U.S.C. 1108(b)(1). Sec. 2550.408b-19 also issued under sec. 611(g)(3), Public Law 109-280, 120 Stat. 780, 975 (2006).

§ 2550.408g-1 [Amended]

■ 2. Section 2550.408g-1 is amended by removing the date "May 22, 2009" and adding in its place "November 18, 2009" in paragraph (g).

Signed at Washington, DC, this 19th day of May 2009.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.

[FR Doc. E9-12065 Filed 5-21-09; 8:45 am]

BILLING CODE 4510-29-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2007-1134; FRL-8908-1]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Consumer Products Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Michigan Department of Environmental Quality (MDEQ) on October 26, 2007, to revise the Michigan State Implementation Plan (SIP). The State has submitted revisions to two rules in Part 6, "Emission Limitations and Prohibitions-Existing Sources of Volatile Organic Compound (VOC) Emissions." First, the State has revised R 336.1660 by adopting by reference, with some modifications, the Ozone Transport Commission's September 13, 2006, Model Rule (Model Rule). Second, the State has amended R 336.1661 by adopting by reference the Federal definition of "volatile organic compound."

DATES: This direct final rule will be effective July 21, 2009, unless EPA receives adverse comments by June 22, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1134, by one of the following methods:

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

2. *E-mail:* mooney.john@epa.gov.

3. *Fax:* (312) 692-2551.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77

¹ These comments are available on the Department's Web site at: <http://www.dol.gov/ebsa/regs/cmt-investmentadvicefinalrule.html>.

West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2007-1134. 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.

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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through

Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, chang.andy@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

- A. When did the State submit the requested rule revisions to EPA?
- B. Did Michigan hold public hearings for each of these rule revisions?

II. What are the revisions that the State is requesting for incorporation into the SIP?

- A. Standards for Volatile Organic Compounds Emissions from Consumer Products
- B. Definitions for Consumer Products

III. What action is EPA taking?

IV. Statutory and Executive Order Reviews

I. Background

A. When did the State submit the requested rule revisions to EPA?

MDEQ submitted the requested rule revisions on October 26, 2007.

B. Did Michigan hold public hearings for each of these rule revisions?

MDEQ held a hearing on July 19, 2007, and did not receive any adverse comments.

II. What are the revisions that the State is requesting for incorporation into the SIP?

The State has requested that EPA approve revisions to R 336.1660, "Standards for VOC Emissions from Consumer Products," and R 336.1661, "Definitions for Consumer Products," into the Michigan SIP. The revisions are described in detail below.

A. Standards for Volatile Organic Compounds Emissions from Consumer Products

MDEQ has requested that EPA approve into the Michigan SIP the revision of Part 6, R 336.1660, into which the State has adopted by reference the provisions in the Ozone Transport Commission's amended "Model Rule for Consumer Products," dated September 13, 2006, with some modifications. The modifications are related to implementation dates that are

updated from the Model Rule and include several other minor changes.

The amended rules include: The addition of 23 product categories to the existing 83 categories in the table of standards in R 336.1660; the addition of sell-through of products; and the addition of requirements for contact adhesives, electronic cleaners, footwear, or leather care products, and general purpose degreasers. Michigan did not adopt the sections of the Model Rule that address variances, violations, and severability. It was not necessary for Michigan to adopt these three specific sections of the Model Rule, as there are Michigan-specific rules that already address these issues. Section 324.5535 of Michigan Act 451 addresses the State's variance requirements, Sections 324.5528 and 324.5531 of Michigan Act 451 address violations, and Section 324.9122 of Michigan Act 451 provides for severability of the State's rules.

B. Definitions for Consumer Products

MDEQ also has requested that EPA approve R 336.1661 into the Michigan SIP which adopts by reference the Federal definition of "volatile organic compound" from 40 CFR 51.100. R 336.1661 contains definitions used exclusively in R 336.1660.

III. What action is EPA taking?

We are approving revisions to the Michigan SIP in two portions of Part 6: (1) To revise R 336.1660, "Standards for VOC Emissions from Consumer Products," in which Michigan has adopted by reference the amended Ozone Transport Commission's Model Rule with some modifications, and (2) to revise R 336.1661, "Definitions for Consumer Products," to define "volatile organic compound." Michigan has adopted the amended Model Rule by reference with three exceptions.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no 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 State plan if relevant adverse written comments are filed. This rule will be effective July 21, 2009 without further notice unless we receive relevant adverse written comments by June 22, 2009. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA

will not institute a second comment period, therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 21, 2009.

IV. 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 July 21, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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: May 6, 2009.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

- 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 X—Michigan

- 2. In § 52.1170, the table in paragraph (c) entitled "EPA-Approved Michigan Regulations" is amended by revising entries in Part 6 for "R 336.1660" and "R 336.1661" to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
Part 6. Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions				
R 336.1660	Standards for Volatile Organic Compounds Emissions from Consumer Products.	October 3, 2007	May 22, 2009 [Insert page number where the document begins].	
R 336.1661	Definitions for Consumer Products	October 3, 2007	May 22, 2009 [Insert page number where the document begins].	

* * * * *

[FR Doc. E9-11915 Filed 5-21-09; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80-286; FCC 09-44]

Jurisdictional Separations and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: Jurisdictional separations is the process by which incumbent local exchange carriers (incumbent LECs) apportion regulated costs between the intrastate and interstate jurisdictions. In this document, the Commission extends until June 30, 2010, the current freeze of part 36 category relationships and jurisdictional cost allocation factors used in jurisdictional separations. Extending the freeze provides stability for, and avoids imposing undue burdens on, carriers that must comply with the Commission's separations rules while the Commission considers issues relating to comprehensive reform of the jurisdictional separations process.

DATES: Effective June 22, 2009.

FOR FURTHER INFORMATION CONTACT: Daniel Ball, Attorney Advisor, at 202-418-1577, Pricing Policy Division, Wireline Competition Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in CC Docket No. 80-286, FCC 09-44, released on May 15, 2009. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445

12th Street, SW., Washington, DC 20554.

1. Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the intrastate and interstate jurisdictions. The freeze of Part 36 category relationships and jurisdictional cost allocation factors was first implemented for five years on July 1, 2001, 66 FR 33202, June 21, 2001 (2001 Separations Freeze Order), then extended approximately three years on June 23, 2006, 71 FR 29843, May 24, 2006 (2006 Separations Freeze Extension Order). On March 27, 2009, the Commission released a notice of proposed rulemaking seeking comment on a further extension of the freeze until June 30, 2010. 74 FR 15236 (Apr. 3, 2009) (NPRM). The overwhelming majority of parties filing comments in response to the NPRM supported extension of the freeze. This R&O extends the current freeze until June 30, 2010. Extending the freeze provides stability for, and avoids imposing undue burdens on, carriers that must comply with the Commission's separations rules while the Commission, working with the Federal-State Joint Board on Separations, considers issues relating to comprehensive separations reform.

2. The extended freeze will be implemented as described in the 2001 Separations Freeze Order. Specifically, price-cap carriers would use the same relationships between categories of investment and expenses within part 32 accounts and the same jurisdictional allocation factors that have been in place since the inception of the current freeze on July 1, 2001. Rate-of-return carriers would use the same frozen jurisdictional allocation factors, and would use the same frozen category relationships if they had opted previously to freeze those as well.

I. Procedural Matters

A. Final Regulatory Flexibility Certification

3. As required by the Regulatory Flexibility Act, the Commission certifies that these regulatory amendments will not have a significant impact on small business entities.

B. Paperwork Reduction Act

4. The R&O does not propose any new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new, modified, or proposed "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

5. The Commission will send a copy of the R&O in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

II. Ordering Clauses

6. Pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 214(e), 254, and 410, the R&O is adopted.

7. The report and order shall be effective June 22, 2009.

8. Pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410(c), the issues set forth in the R&O are referred to the Federal-State Joint Board on Separations for preparation of a recommended decision.

9. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of

the R&O, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telephone, and Uniform system of accounts.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Interim Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 36 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (j), 205, 221(c), 254, 403, and 410.

■ 2. In 47 CFR part 36 remove the words "June 30, 2006" each place they appear and add, in their place, the words "June 30, 2010" in the following places:

- a. Section 36.3(a), (b), (c), (d), and (e);
- b. Section 36.123(a)(5), and (a)(6);
- c. Section 36.124(c), and (d);
- d. Section 36.125(h), (i), and (j);
- e. Section 36.126(b)(5), (c)(4), (e)(4), and (f)(2);

- f. Section 36.141(c);
- g. Section 36.142(c);
- h. Section 36.152(d);
- i. Section 36.154(g);
- j. Section 36.155(b);
- k. Section 36.156(c);
- l. Section 36.157(b);
- m. Section 36.191(d);
- n. Section 36.212(c);
- o. Section 36.214(a);
- p. Section 36.372;
- q. Section 36.374(b), and (d);
- r. Section 36.375(b)(4), and (b)(5);
- s. Section 36.377(a) introductory text, (a)(1)(ix), (a)(2)(vii), (a)(3)(vii), (a)(4)(vii), (a)(5)(vii), and (a)(6)(vii);
- t. Section 36.378(b)(1);
- u. Section 36.379(b)(1), and (b)(2);
- v. Section 36.380(d), and (e);
- w. Section 36.381(c) and (d); and
- x. Section 36.382(a).

[FR Doc. E9-12033 Filed 5-21-09; 8:45 am]

BILLING CODE 6712-01-P

Proposed Rules

Federal Register

Vol. 74, No. 98

Friday, May 22, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS-2009-0013]

Privacy Act of 1974: Implementation of Exemptions; U.S. Citizenship and Immigration Services 009 Compliance Tracking and Management System (CTMS)

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) is amending its regulations to exempt portions of a system of records from certain provisions of the Privacy Act of 1974. Specifically, DHS proposes to exempt portions of the Compliance Tracking and Management System (CTMS) from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. CTMS is a system of records that DHS will use to support the Verification Division of U.S. Citizenship and Immigration Services (USCIS). CTMS collects and uses information necessary for DHS to support monitoring and compliance activities for researching and managing misuse, abuse, discrimination, breach of privacy, and fraudulent use of information obtained through two USCIS Verification Division programs: Systematic Alien Verification for Entitlements (SAVE); and E-Verify.

DATES: Comments must be received on or before June 22, 2009.

ADDRESSES: You may submit comments, identified by docket number [DHS-2009-0013] by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 703-483-2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office,

Department of Homeland Security, Washington, DC 20528.

• *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

• *Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Claire Stapleton (202-358-7777), Verification Division Privacy Branch Chief, or Donald K. Hawkins (202-272-1400), Citizenship and Immigration Services Privacy Officer, 20 Massachusetts Avenue, NW., Washington, DC 20529. U.S. Citizenship and Immigration Services, Department of Homeland Security, Washington, DC 20529. For privacy issues please contact: Mary Ellen Callahan (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background: The Department of Homeland Security (DHS), elsewhere in this edition of the *Federal Register*, published a Privacy Act system of records notice describing records in the Compliance Tracking and Management System (CTMS). This system of records is owned and operated by U.S. Citizenship and Immigration Services (USCIS). CTMS collects and uses information necessary to support monitoring and compliance for researching and managing misuse, abuse, discrimination, breach of privacy, and fraudulent use of USCIS Verification Division's verification programs: (1) Systematic Alien Verification for Entitlements (SAVE); and (2) E-Verify. SAVE and E-Verify are both congressionally mandated programs for the verification of information about an individual based on documents presented to either a government agency or employer. E-Verify, formerly known as the Basic Pilot Program, was established under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 section 401, 8 U.S.C. 1324a note. SAVE was established under the Immigration and Control Act of 1986, Public Law 100-

360 section 121(c). The specifics of the SAVE and E-Verify Program can be found on the DHS Web site and in the Verification Information System (VIS) System of Records Notice (SORN) and Privacy Impact Assessments (PIA). Congress further required that DHS provide reasonable safeguards to prevent these programs from misuse, abuse, discrimination, breach of privacy, and fraudulent use.

The Verification Division of USCIS has established a Monitoring and Compliance Branch to monitor and research potential cases of misuse, abuse, discrimination, breach of privacy, and fraudulent use. CTMS is the system that supports this effort. DHS proposes to exempt portions of the Compliance Tracking and Management System (CTMS) from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. The Privacy Act allows Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking (NPRM) to make clear to the public the reasons why a particular exemption is claimed.

In this NPRM, DHS now is proposing to exempt CTMS, in part, from certain provisions of the Privacy Act. Some information in CTMS is shared with and contributes to law enforcement activities of DHS components and other Federal agencies. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating USCIS monitoring and compliance processes and to avoid disclosure of research techniques, as these processes and techniques may inform law enforcement investigations. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall

law enforcement process, the applicable exemptions may be waived.

List of Subjects in 6 CFR Part 5

Privacy, Freedom of information.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

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

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 et seq.; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, Exemption of Record Systems under the Privacy Act, the following new paragraph 14:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

14. The Department of Homeland Security Compliance Tracking and Management System (CTMS) consists of electronic and paper files that will be used by DHS and its components. This system of records will be used to perform a range of information management and analytic functions involving minimizing misuse, abuse, discrimination, breach of privacy, and fraudulent use of SAVE and E-Verify. Pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act, this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency.

Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interest of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: May 15, 2009.

Mary Ellen Callahan,
Chief Privacy Officer, Department of
Homeland Security.

[FR Doc. E9–11966 Filed 5–21–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Doc. No. AMS–FV–08–0062; FV08–945–1 PR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, OR and Imported Irish Potatoes; Relaxation of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relax the size requirements for potatoes handled under the marketing order for Idaho-Eastern Oregon potatoes and for

long type potatoes imported into the United States. This rule would revise the size requirements to allow: Creamer size (¾ inch to 1⅝ inches diameter) for all varieties of potatoes to be handled if the potatoes otherwise meet U.S. No. 1 grade; and round type potatoes to be handled without regard to size so long as the size is specified on the container in connection with the grade. The proposed changes are intended to improve the handling and marketing of Idaho-Eastern Oregon potatoes and increase returns to producers. The proposed changes would also allow the importation of Creamer size long type potatoes under regulations as authorized by section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Comments must be received by July 21, 2009.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: <http://www.regulations.gov>. All comments should reference the document number and the date and page number of this issue of the *Federal Register* and will be available for public inspection in the office of the Docket Clerk during regular business hours, or can be viewed at <http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT:

Barry Broadbent or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, OR 97204; Telephone: (503) 326–2724, Fax: (503) 326–7440, or E-mail: Barry.Broadbent@usda.gov or GaryD.Olson@usda.gov.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

USDA is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the terms of the marketing order, fresh market shipments of Idaho-Eastern Oregon potatoes are required to be inspected and are subject to grade, size, quality, maturity, pack, and container requirements. This proposed rule invites comments on relaxing the

current size requirements for potatoes handled under the order. As required under section 8e of the Act, the addition of the Creamer size allowance for U.S. No. 1 grade potatoes to the size requirements contained in the marketing order regulations would change the import regulations for imported long type potatoes.

At its meeting on June 9, 2008, the Committee unanimously recommended relaxing the size requirements for all varieties of U.S. No. 1 grade potatoes. Additionally, the Committee recommended adding a provision to the current requirements that would allow handling of U.S. No. 2 or better grade round type potatoes without regard to size so long as the size is specified on the container in connection with the grade.

Sections 945.51 and 945.52 of the order provide authority for the establishment and modification of grade, size, quality, and maturity regulations applicable to the handling of potatoes.

Section 945.341 establishes minimum grade, size, and maturity requirements for potatoes handled subject to the order. Currently, the order's handling regulations specify the size requirement for round type potato varieties handled subject to the order to be 1 $\frac{1}{8}$ inches minimum diameter. All other varieties of potatoes handled must be 2 inches minimum diameter, or 4 ounce minimum weight, provided that at least 40 percent of the potatoes in each lot shall be 5 ounces or heavier.

Additionally, the order's handling regulations allow the handling of Size B potatoes (1 $\frac{1}{2}$ to 2 $\frac{1}{4}$ inches diameter), as established in the United States Standards for Grades of Potatoes (7 CFR 51.1540-51.1566), so long as the potatoes otherwise meet the requirements of U.S. No. 1 grade.

This proposed rule would relax the size requirements of potatoes regulated under the order to allow the handling of Creamer size potatoes ($\frac{3}{4}$ to 1 $\frac{5}{8}$ inches diameter, as defined in the United States Standards for Grades of Potatoes), if those potatoes otherwise meet the requirements of U.S. No. 1 grade. In addition, this rule would add a provision to the existing size requirements to allow U.S. No. 2 grade or better round type potatoes to be handled without regard to size, so long as the size is specified on the container in connection with the grade. This change is consistent with the size requirements for U.S. No. 1 and U.S. No. 2 grade potatoes as contained in the United States Standards for Grades of Potatoes.

Committee members stated that consumer demand for small potatoes has been increasing in recent years and now makes up a significant percentage of total domestic potato consumption. The trend has also increased domestic market demand for potatoes smaller than currently allowed by the size requirements prescribed in the order. This shift in consumer preference has been recognized with the inclusion of the new Creamer size classification in the most recent update of the United States Standards for Grades of Potatoes, which became effective April 21, 2008 (73 FR 15052). The market for smaller potatoes is currently being supplied by potato production areas outside the order's production area and through limited special purpose shipments authorized under § 945.341(e)(iii).

Committee members believe that it is important that the handling regulations be changed to recognize the significant increase in the demand for small size potatoes. They believe that relaxing the minimum size requirement for certain grades and packs of potatoes would enable handlers to market a larger portion of the potato crop in fresh market outlets, meet the supply needs of potato buyers, and satisfy the purchasing preferences of potato consumers.

According to the Committee, quality assurance is very important to the industry and to its customers. Providing the public with acceptable quality produce that is appealing to the consumer on a consistent basis is necessary to maintain consumer confidence in the marketplace. The Committee believes that relaxing the size requirements, while maintaining all other regulatory requirements, will preserve their commitment to quality while allowing the industry to adapt to changing consumer preferences.

The Committee reported that potato size is a significant consideration of potato buyers. Providing them the sizes desired by their customers is important to promoting potato sales. In addition, small size potatoes tend to command higher prices in the market, providing producers and handlers the opportunity to increase revenues. This proposed change is expected to improve the marketing of Idaho-Eastern Oregon potatoes, increase the volume of potatoes handled, and enhance overall returns to producers.

Section 8e provides the authority for the regulation of certain imported commodities whenever those same commodities are regulated by a domestic marketing order. Potatoes are one of the commodities specifically covered by section 8e in the Act. In

addition, section 8e provides that whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas are concurrently in effect, imports must comply with the provisions of the order which regulates the commodity produced in the area with which the imported commodity is in the "most direct competition." Section 980.1(a)(2)(iii) contains the determination that imports of long type potatoes during each month of the year are in most direct competition with potatoes of the same type produced in the area covered by the order.

Minimum grade, size, quality, and maturity requirements for potatoes imported into the United States are currently in effect under § 980.1. Section 980.1(b)(3) provides that, through the entire year, the grade, size, quality, and maturity requirements of Marketing Order No. 945 applicable to potatoes of all long types shall be the respective grade, size, quality, and maturity requirements for imported potatoes of all long types. This proposal would relax the size requirements for imports of U.S. No. 1 grade, long type potatoes. Currently, the minimum size requirement for imported long type U.S. No. 1 grade potatoes is Size B (1½ to 2¼ inches). The proposed change would allow importation of Creamer size (¾ inch to 1⅝ inches) long type potatoes if the potatoes otherwise meet the requirements of the U.S. No. 1 grade standard.

Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

Import regulations issued under the Act are based on those established under Federal marketing orders which regulate the handling of domestically produced products.

There are approximately 46 handlers of Idaho-Eastern Oregon potatoes who are subject to regulation under the order and about 900 potato producers in the regulated area. In addition, there are

approximately 255 importers of all types of potatoes, many of which import long types, who are subject to regulation under the Act. Small agricultural service firms, which include potato handlers and importers, are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$750,000.

Based on a 2005–2007 average fresh potato production of 32,242,467 hundredweight as calculated from Committee records, a three-year average of producer prices of \$6.95 per hundredweight reported by the National Agricultural Statistics Service (NASS), and 900 Idaho-Eastern Oregon potato producers, the average annual producer revenue is approximately \$248,984. It can be concluded, therefore, that a majority of these producers would be classified as small entities.

In addition, based on Committee records and 2005–2007 f.o.b. shipping point prices—predominantly ranging from \$5.00 to \$26.00 per hundredweight reported by USDA's Market News Service (Market News), many of the Idaho-Eastern Oregon potato handlers do not ship over \$7,000,000 worth of potatoes. In view of the foregoing, it can be concluded that a majority of the handlers would be classified as small entities as defined by the SBA. The majority of potato importers may be classified as small entities as well.

This proposed rule would relax the size requirements of potatoes regulated under the order to allow the handling of Creamer size potatoes, if those potatoes otherwise meet the requirements of U.S. No. 1 grade. Additionally, this rule would add a provision to the existing size requirements that would allow round type potatoes to be handled without regard to size, so long as the size is specified on the container in connection with the grade.

Pursuant to section 8(e), this rule would also relax the size requirements of the import regulations to allow importation of Creamer size, long type potatoes if the potatoes otherwise meet the requirements of U.S. No. 1 grade. This rule would not affect the current import requirements for red-skinned, round type or all other round type potatoes and would not require any language changes to § 980.1 of the vegetable import regulations.

Committee members believe it is important to modify the handling regulations to recognize the significant increase in the demand for smaller size potatoes. They believe that relaxing the minimum size requirements would

enable handlers to market a larger portion of the crop in fresh market outlets and to meet the needs of consumers and produce buyers. Market mechanisms have indicated that smaller minimum diameter potatoes are desirable, as evidenced by the increasing demand for such potatoes, and consistently command higher prices in relation to larger diameter potatoes. This action is being proposed to ensure that the growing market for smaller sized potatoes continues to be adequately supplied. This proposed change is expected to improve the marketing of Idaho-Eastern Oregon potatoes and increase returns to producers.

Authority for this proposed rule is provided in §§ 945.51 and 945.52 of the order. Section 945.341(a)(2) of the order's handling regulations prescribes the size requirements. Relevant import regulations are contained in §§ 980.1 and 980.501.

At the June 9, 2008, meeting, the Committee discussed the impact of this change on handlers and producers. The proposal is a relaxation of current regulation and, as such, should either generate a positive impact or no impact on industry participants. The Committee did not foresee a situation in which this proposed change would negatively impact either handlers or producers.

Neither the Committee nor NASS compile statistics exclusively relating to the production of small size potatoes. The Committee has relied on the opinions of the producers and the handlers familiar with that market to draw its conclusions. Information presented in the June 9 meeting suggests that there is increasing domestic consumer demand for small size potatoes. There also appears to be a trend in domestic consumer preference toward increasingly smaller diameter potatoes. This is in contrast to the demand for larger size potatoes, which has been essentially static for several years.

The addition of the Creamer size designation to the United States Standards for Grades of Potatoes by the USDA Fresh Products Branch (Fresh Products) supports the Committee's position that market demand for small size potatoes is increasing. Prior to the recent changes made in the United States Standards for Grades of Potatoes, the smallest potato size designation was Size B, with a minimum diameter of 1½ inches. Fresh Products determined that a smaller potato size designation was necessary to accommodate emerging marketing trends in the potato industry. The addition of the Creamer size

designation reduced the minimum potato size, as determined in the United States Standards for Grades of Potatoes, to 3/4 inches diameter.

The Committee reported that smaller size potatoes of good quality receive premium prices. While USDA Market News does not report on round type potatoes or on small size, long type potatoes in the Idaho-E. Oregon area, but does report on activity in other regions producing both round types and smaller sizes of potatoes, reports from other areas do show that the higher grade, small size round type potatoes consistently command higher prices than larger potatoes. It would be reasonable to expect price trends between production areas to move together, given that the regions would compete with each other for sales in the domestic market.

Relaxing the size requirement would allow producers and handlers of potatoes under the order to ship a greater percentage of their crop to the fresh market. In addition, shipments of the smaller size potatoes that would be allowed after this change should command higher prices, which would be expected to increase total net returns for those firms who chose to ship. The benefits derived from this rule change are not expected to be disproportionately more or less for small handlers or producers than for larger entities.

Additionally, this rule would allow potato importers to respond to the changing demand of the domestic consumers. The market's increasing preference for small size potatoes applies to imported potatoes as well as domestic potatoes. Thus, importers would benefit by increasing sales to an emerging domestic market segment.

The Committee discussed alternatives to this proposed change. One alternative included making no change at all to the current regulation. The Committee did not believe that maintaining the current requirements would serve to meet the needs of consumers or buyers, and would not ultimately be of any benefit to the industry. Another alternative discussed was to allow smaller size potatoes to continue to be handled exempt from regulation under the special purpose shipment provisions provided within the order. This option was also rejected because it could potentially allow lower quality potatoes to be shipped into the fresh market. Lastly, the Committee considered further relaxing the size requirement for potatoes beyond what is proposed in this rule. The discussion centered on whether to extend the relaxation to U.S. No. 2 grade potatoes as well. The

Committee believed that the proposed relaxation is sufficient to adequately supply the growing market demand for smaller size potatoes while still maintaining high quality standards for such potatoes. After consideration of all the alternatives, the Committee believes that the proposed changes contained herein would provide the greatest amount of benefit to the industry with the least amount of cost.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

This rule would not impose any additional reporting or recordkeeping requirements on either small or large potato handlers and importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Further, the Committee's meeting was widely publicized throughout the potato industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the June 9, 2008, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR part 945 is proposed to be amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 945 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 945.341, paragraphs (a)(2)(i) and (a)(2)(iii) are revised to read as follows:

§ 945.341 Handling regulation.

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| (a) | * | * | * | * |
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| (2) | * | * | * | * |
| (i) | <i>Round varieties.</i> 1 7/8 inches minimum diameter, unless otherwise specified on the container in connection with the grade. | | | |
| (ii) | * * * | | | |
| (iii) | <i>All varieties, U.S. No. 1 grade or better.</i> (A) Size B (1 1/2 to 2 1/4 inches diameter). | | | |
| | (B) Creamer (3/4 to 1 5/8 inches diameter). | | | |
| * | * | * | * | * |

Dated: May 18, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–11968 Filed 5–21–09; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 613, 615, 619, and 620

RIN 3052–AC43

Organization; Eligibility and Scope of Financing; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Definitions; and Disclosure to Shareholders; Director Elections

AGENCY: Farm Credit Administration.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Farm Credit Administration (FCA, Agency or we) is extending the comment period on the proposed rulemaking that seeks comments on proposed changes to the rules on Farm Credit System (System) bank and association director elections

and other voting procedures to clarify the director elections process, and to update the rules to incorporate interpretations made through recent bookletters to System institutions. We are extending the comment period so all interested parties will have additional time to provide comments.

DATES: You may send comments on or before August 14, 2009.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *E-mail:* Send us an e-mail at reg-comm@fca.gov.
- *FCA Web site:* <http://www.fca.gov>. Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or from our Web site at <http://www.fca.gov>. Once you are in the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Elna Luopa, Senior Corporate Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434; or

Laura D. McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-4020.

SUPPLEMENTARY INFORMATION: On April 16, 2009, FCA published a notice in the

Federal Register seeking public comment on proposed changes to the rules governing director elections for System banks and associations and the related director elections process. See 74 FR 17612. The comment period is scheduled to expire on June 15, 2009. In a letter dated May 1, 2009, the Farm Credit Council, on behalf of System banks and associations, requested that the Agency extend the comment period for another 60 days to allow more time for the boards of directors of System banks and associations to consider the proposed rule and submit their comments. Several System associations submitted separate requests to extend the public comment period for an additional 60 days, noting that they will have only one board meeting at which to consider and discuss the issues before the comment period expires. Due to the wide-ranging effect of the proposed rule on directors, director candidates, nominating committees, and the voting shareholders of System institutions, we have granted this request. The FCA supports public involvement and participation in its regulatory process and invites all interested parties to review and provide comments on our proposed rule.

Dated: May 19, 2009.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E9-12013 Filed 5-21-09; 8:45 am]

BILLING CODE 6705-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 30

RIN 3038-AC79

Investment of Customer Funds and Funds Held in an Account for Foreign Futures and Foreign Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Commodity Futures Trading Commission (Commission) is seeking public comment on possible changes to its regulations regarding the investment of customer funds segregated pursuant to Section 4d of the Commodity Exchange Act (customer segregated funds) and funds held in an account subject to Commission Regulation 30.7 (30.7 funds). Commission Regulation 1.25 provides that a derivatives clearing organization

(DCO) or a futures commission merchant (FCM) holding customer segregated funds may invest those funds in certain permitted investments subject to specified requirements that are designed to minimize exposure to credit, liquidity, and market risks. The Commission is considering significantly revising the scope and character of these permitted investments and is seeking public comment before issuing proposed rule amendments.

Additionally, in conjunction with its consideration of possible amendments to Regulation 1.25, the Commission is considering applying the investment requirements of Regulation 1.25, including any prospective amendments, to investments of 30.7 funds. The Commission is seeking public comment on this action before issuing proposed rule amendments.

DATES: Comments must be received on or before July 21, 2009.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov/http://frwebgate.access.gpo/cgi-bin/leaving>. Follow the instructions for submitting comments.

- *E-mail:* secretary@cftc.gov. Include "Advance Notice of Proposed Rulemaking for Regulations 1.25 and 30.7" in the subject line of the message.

- *Fax:* 202-418-5521.

- *Mail:* Send to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

- *Courier:* Same as mail above.

All comments received will be posted without change to <http://www.CFTC.gov/>. Reference should be made to "Advance Notice of Proposed Rulemaking for Regulations 1.25 and 30.7."

FOR FURTHER INFORMATION CONTACT:

Sarah E. Josephson, Special Counsel, 202-418-5684, sjosephson@cftc.gov, or Phyllis P. Dietz, Associate Director, 202-418-5449, pdietz@cftc.gov, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulation 1.25

Under Section 4d(a)(2) of the Commodity Exchange Act (Act),¹ the

¹ 17 U.S.C. 6d(a)(2).

investment of customer segregated funds is limited to obligations of the United States and obligations fully guaranteed as to principal and interest by the United States (U.S. government securities), and general obligations of any State or of any political subdivision thereof (municipal securities). Pursuant to authority under section 4(c) of the Act,² the Commission substantially expanded the list of permitted investments by amending Commission Regulation 1.25 in December 2000 to permit investments in general obligations issued by any enterprise sponsored by the United States (government sponsored enterprise securities), bank certificates of deposit, commercial paper, corporate notes, general obligations of a sovereign nation, and interests in money market mutual funds.³ In connection with that expansion, the Commission included several provisions intended to control exposure to credit, liquidity, and market risks associated with the additional investments, *e.g.*, requirements that the investments satisfy specified rating standards and concentration limits, and be readily marketable and subject to prompt liquidation.⁴

The Commission further modified Regulation 1.25 in 2004 and 2005. In February 2004, the Commission adopted amendments regarding repurchase agreements with customer-deposited securities and time-to-maturity requirements for securities deposited in connection with certain collateral management programs of DCOs.⁵ In May 2005, the Commission adopted amendments related to standards for investing in instruments with embedded derivatives, requirements for adjustable rate securities, concentration limits on reverse repurchase agreements, transactions by FCMs that are also registered as securities brokers or dealers (in-house transactions), rating standards and registration requirements for money market mutual funds, an auditability standard for investment records, and certain technical changes.⁶

The Commission has been, and continues to be, mindful that customer segregated funds must be invested in a manner that minimizes their exposure to credit, liquidity, and market risks both to preserve their availability to customers upon demand and to enable

these assets to be quickly converted to cash at a predictable value to minimize systemic risk. Toward these ends, Regulation 1.25 establishes a general prudential standard by requiring that all permitted investments be "consistent with the objectives of preserving principal and maintaining liquidity."⁷

In 2007, the Commission's Division of Clearing and Intermediary Oversight (Division) launched a review of the nature and extent of investments of customer segregated funds and 30.7 funds in order to obtain an up-to-date understanding of investment strategies and practices and to assess whether any changes to the regulations would be appropriate. As part of this review, all Commission-registered DCOs and FCMs carrying customer accounts provided responses to a series of questions. As the Division was conducting follow-up interviews with respondents, the market events of September 2008 occurred and changed the financial landscape such that the data previously gathered no longer reflected current market conditions. Recent events in the economy have underscored the importance of conducting periodic reassessments, and through this advance notice of proposed rulemaking the Commission is refocusing its review of permitted investments for customer segregated funds and 30.7 funds.

The Commission believes that DCOs and FCMs have managed customer segregated funds and 30.7 funds responsibly during this difficult economic time. Nonetheless, the market events of the past year, notably the failures of certain government sponsored enterprises, difficulties encountered by certain money market mutual funds in honoring redemption requests, illiquidity of certain adjustable rate securities, and turmoil in the credit ratings industry, have challenged many of the fundamental assumptions regarding investments. As a result, the Commission believes it is an especially appropriate time to review permitted investments for customer segregated funds and 30.7 funds.

B. Regulation 30.7

Regulation 30.7⁸ governs an FCM's treatment of customer money, securities, and property associated with positions in foreign futures and foreign options. Regulation 30.7 was issued pursuant to the Commission's plenary authority under Section 4(b) of the Act.⁹ Because Congress did not expressly apply the limitations of Section 4d of the Act to

30.7 funds, the Commission historically has not subjected those funds to the investment limitations applicable to customer segregated funds.

The investment guidelines for 30.7 funds are general in nature.¹⁰ Although Regulation 1.25 investments offer a safe harbor, the Commission has not limited investments of 30.7 funds to permitted investments under Regulation 1.25. The Commission believes that it may be appropriate to impose such a limitation because the same prudential concerns that arise in the context of customer segregated funds also arise in the context of 30.7 funds. Applying the same standards to both types of funds would be consistent with the Act and would establish a bright line for the industry and the Commission.

II. Public Comment Solicited

The Commission is considering significantly revising the scope and character of permitted investments for customer segregated funds and 30.7 funds and is seeking public comment before issuing any proposed amendments to Regulations 1.25 or 30.7.

In the interest of gathering as much information as possible before reaching any conclusions, the Commission is soliciting comments from the public regarding which instruments should continue to be permitted investments for customer segregated funds under Regulation 1.25. The Commission welcomes comments on which instruments no longer merit inclusion as permitted investments, as well as comments in support of any new instruments that might qualify as permitted investments. The Commission also requests comment on appropriate limitations or safeguards that should be applied to permitted investments.

The Commission is particularly interested in relevant data that commenters can provide regarding the credit, liquidity, and market risk of various investment choices. The Commission is open both to evidence in support of retaining current permitted investments and evidence indicating a need to eliminate certain permitted investments. Additionally, the Commission urges commenters to analyze the benefits and burdens of any

² 7 U.S.C. 6(c).

³ 17 CFR 1.25. See 65 FR 77993 (Dec. 13, 2000) (publishing final rules); and 65 FR 82270 (Dec. 28, 2000) (making technical corrections and accelerating effective date of final rules from February 12, 2001 to December 28, 2000).

⁴ *Id.*

⁵ 69 FR 6140 (Feb. 10, 2004).

⁶ 70 FR 28190 (May 17, 2005).

⁷ 17 CFR 1.25(b).

⁸ 17 CFR 30.7.

⁹ 7 U.S.C. 6(b).

¹⁰ See Commission Form 1-FR-FCM Instructions at 12-9 (Mar. 31, 2007) ("In investing funds required to be maintained in separate section 30.7 account(s), FCMs are bound by their fiduciary obligations to customers and the requirement that the secured amount required to be set aside be at all times liquid and sufficient to cover all obligations to such customers. Regulation 1.25 investments would be appropriate, as would investments in any other readily marketable securities.").

potential regulatory modifications in light of current market realities.

Given the substantive and practical concerns that may arise from altering the current list of permitted investments, the Commission is seeking the views of all interested parties before regulatory changes, if any, are proposed. The Commission also will conduct its own research and analysis. Before any regulatory changes are adopted there will be an opportunity for additional public comment.

The Commission requests comment on all aspects of Regulation 1.25, as follows:

A. Permitted Investments Under the Act. U.S. government securities and municipal securities are permitted investments under Section 4d(a)(2) of the Act and Regulation 1.25(a)(1)(i)–(ii). Please provide any comments, information, research, or data regarding appropriate regulatory requirements that might be imposed in order to better safeguard customer segregated funds.

B. Other Permitted Investments Under Regulation 1.25. Please provide any comments, information, research, or data in support of retaining, rescinding, or modifying authorization to invest customer segregated funds in the following instruments:

1. Government sponsored enterprise securities (Regulation 1.25(a)(1)(iii));
2. Certificates of deposit issued by a bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934,¹¹ or a domestic branch of a foreign bank that carries deposits insured by the Federal Deposit Insurance Corporation (Regulation 1.25(a)(1)(iv));
3. Commercial paper (Regulation 1.25(a)(1)(v));
4. Corporate notes or bonds (Regulation 1.25(a)(1)(vi));
5. General obligations of a sovereign nation (Regulation 1.25(a)(1)(vii)); and
6. Interests in money market mutual funds (Regulation 1.25(a)(1)(viii)).

C. Transactions in Permitted Investments. Please provide any comments, information, research, or data in support of retaining, rescinding, or modifying authorization to enter into the following transactions, and please consider the effect that a more limited list of permitted investments would have on:

1. Repurchase and reverse repurchase transactions using customer cash or securities purchased with customer cash (Regulation 1.25(a)(2)(i));
2. Repurchase transactions using customer-deposited securities (Regulation 1.25(a)(2)(ii)); and

3. In-house transactions by FCMs that are also registered as securities brokers or dealers (Regulation 1.25(a)(3)(i)–(iii)).

D. Limitations and Safeguards. Please provide any comments, information, research, or data regarding the general terms and conditions of permitted instruments, including:

1. Marketability/liquidity (Regulation 1.25(b)(1));
2. Rating requirements (Regulation 1.25(b)(2));
3. Restrictions on instrument features, such as instruments that contain an embedded derivative and adjustable rate securities (Regulation 1.25(b)(3));
4. Issuer concentration limits (Regulation 1.25(b)(4));
5. Time-to-maturity (for an investment portfolio or individual instruments) (Regulation 1.25(b)(5));
6. Investments in instruments issued by affiliates (Regulation 1.25(b)(6));
7. Requirements specific to interests in money market mutual funds (Regulation 1.25(c));
8. Requirements specific to repurchase agreements and reverse repurchase agreements (Regulation 1.25(d)); and
9. Requirements specific to in-house transactions (Regulation 1.25(e)).

The Commission requests comment on Regulation 30.7, as follows:

Please provide comments, information, research, or data on the effect of applying the requirements of Regulation 1.25 to investments of 30.7 funds. The Commission also requests comments, information, research, or data relating to whether there is any basis supporting the continued application of two different investment standards.

Issued in Washington, DC, on May 19, 2009, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9–12020 Filed 5–21–09; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038–AC40

Concept Release on Whether To Eliminate the Bona Fide Hedge Exemption for Certain Swap Dealers and Create a New Limited Risk Management Exemption From Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On March 24, 2009, the Commodity Futures Trading Commission (“Commission”) published a concept release on whether to eliminate the *bona fide* hedge exemption for certain swap dealers and create a new limited risk management exemption from speculative position limits. Comments on the proposal were originally due by May 26, 2009. Now, at the request of interested parties, the Commission is extending the comment period to June 16, 2009.

DATES: Comments must be received by June 16, 2009.

ADDRESSES: Written comments should be sent to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may also be sent by facsimile to (202) 418–5521, submitted via e-mail to secretary@cftc.gov. The words, “Concept Release, Swap Dealers” should appear in the subject field of responses submitted via e-mail, and should be clearly indicated in written submissions. Comments may also be submitted by connecting to the Federal eRulemaking Portal at: <http://www.regulations.gov> and following comment submission instructions.

FOR FURTHER INFORMATION CONTACT: Donald H. Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418–5041, e-mail dheitman@cftc.gov.

SUPPLEMENTARY INFORMATION: On March 24, 2009, the Commission published and sought public comment regarding a concept release on whether to eliminate the *bona fide* hedge exemption for certain swap dealers and create a new limited risk management exemption from speculative position limits.

By letters dated May 12, 2009, the Futures Industry Association and the CME Group, Inc., respectively, requested that the original comment period be extended to June 16, 2009. Recognizing the significance of the issues raised in the Concept Release, and to encourage the submission of meaningful comments, the Commission has decided to grant the requests. The comment period for the Commission’s Concept Release on Whether to Eliminate the *Bona Fide* Hedge Exemption for Certain Swap Dealers and Create a New Limited Risk Management Exemption from Speculative Position Limits is hereby extended to June 16, 2009.

¹¹ 15 U.S.C. 78c(a)(6).

Issued in Washington, DC, on May 18, 2009, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9-12000 Filed 5-21-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2007-1134; FRL-8908-2]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Consumer Products Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Michigan Department of Environmental Quality (MDEQ) on October 26, 2007, to revise the Michigan State Implementation Plan (SIP). The State has requested revisions to two rules in Part 6, "Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound (VOC) Emissions." The State has revised R 336.1660 by adopting by reference, with some modifications, the amended Ozone Transport Commission Model Rule published on September 13, 2006. The State has amended the definition of VOC in R 336.1661 by adopting the Federal definition from 40 CFR 51.100.

DATES: Comments must be received on or before June 22, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1134, by one of the following methods:

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

2. *E-mail*: mooney.john@epa.gov.

3. *Fax*: (312) 692-2551.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Final Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Andy Chang, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, chang.andy@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 EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives 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; therefore, 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 this 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 Final Rules section of this **Federal Register**.

Dated: May 6, 2009.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E9-11913 Filed 5-21-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 070717350-7391-01]

RIN 0648-AV63

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Initial Implementation of the Western and Central Pacific Fisheries Convention

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement, in part, the Western and Central Pacific Fisheries Convention Implementation Act (Act), which authorizes the Secretary of Commerce to promulgate regulations needed to carry out the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), including implementing the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). NMFS has determined that this action is necessary for the United States to satisfy its international obligations under the Convention, to which it is a Contracting Party. It would have the effect of requiring that all relevant U.S. fishing vessels are operated in conformance with the provisions of the Convention.

DATES: Comments must be submitted in writing by June 22, 2009.

ADDRESSES: You may submit comments on this proposed rule, identified by 0648-AV63, and the draft environmental assessment (EA) and the regulatory impact review (RIR) prepared for the proposed rule by any of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking portal, at <http://www.regulations.gov>.

- Mail: William L. Robinson, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Include the identifier "0648-AV63" in the comments.

Instructions: All comments received are part of the public record and

generally will be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (if submitting comments via the Federal e-Rulemaking portal, enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

An initial regulatory flexibility analysis (IRFA) prepared under the authority of the Regulatory Flexibility Act (RFA) is included in the CLASSIFICATION section of the SUPPLEMENTARY INFORMATION section of this proposed rule.

Copies of the draft EA and RIR prepared for this proposed rule are available at http://www.fpir.noaa.gov/IFD/ifd_documents_data.html or may be obtained from William L. Robinson (see ADDRESSES).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to William L. Robinson, Regional Administrator, NMFS PIRO (see address above) and by e-mail to David_Rostker@omb.eop.gov or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808-944-2219.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is also accessible at <http://www.gpoaccess.gov/fr>.

Background on the Convention

The Convention was opened for signature in Honolulu on September 5, 2000, and entered into force in June 2004. The full text of the Convention can be obtained from the WCPFC website at: <http://www.wcpfc.int/convention.htm>. The area of application of the Convention, or the Convention Area, comprises the majority of the western and central Pacific Ocean. A map showing the exact boundaries of the Convention Area can be found on the WCPFC website at: <http://www.wcpfc.int/pdf/Map.pdf>. The Convention is focused on highly migratory species (HMS) and stocks of HMS. Under the Western and Central Pacific Fisheries Convention Implementation Act (Public Law 109-479, Sec 501, *et seq.*, and codified at 16

U.S.C. 6901 *et seq.*), HMS fish stocks are defined to mean all fish stocks of the species listed in Annex I of the United Nations Convention on the Law of the Sea of 10 December 1982, except sauries, occurring in the Convention Area, and such other species of fish as the WCPFC may determine. The Convention also provides for the conservation and management of non-target, associated and dependent species.

The WCPFC, established under the Convention, is comprised of the Contracting Parties to the Convention and fishing entities that have agreed to be bound by the regime established by the Convention. Other entities that participate in the WCPFC include Participating Territories and Cooperating Non-Members. Participating Territories participate with the authorization of their respective Contracting Parties. Cooperating Non-Members are admitted by the WCPFC on a year-to-year basis.

The current Contracting Parties to the Convention are: Australia, Canada, China, Cook Islands, European Community, Federated States of Micronesia, Fiji, France, Japan, Kiribati, Korea, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Tonga, Tuvalu, United States of America and Vanuatu. Chinese Taipei (Taiwan), as a fishing entity, has agreed to be bound by the regime established by the Convention. The current Participating Territories are: French Polynesia, New Caledonia and Wallis and Futuna (affiliated with France); Tokelau (affiliated with New Zealand); and the Territory of American Samoa, the Commonwealth of the Northern Mariana Islands and the Territory of Guam (affiliated with the United States of America). The Cooperating Non-Members for 2009 are Belize, El Salvador, Indonesia, Mexico and Senegal.

The Convention was ratified by, and came into force for, the United States in 2007. The United States thereby became a full Member of the WCPFC after having been a Cooperating Non-Member since the WCPFC's establishment in 2004.

International Obligations of the United States under the Convention

The United States will, in general, implement the provisions of the Convention under authority of the Act, and, as appropriate, under authority of the High Seas Fishing Compliance Act of 1995 (HSFCA; 16 U.S.C. 5501 *et seq.*), the Magnuson-Stevens Fishery Conservation and Management Act

(MSA; 16 U.S.C. 1801 *et seq.*), the South Pacific Tuna Act of 1988 (SPTA; 16 U.S.C. 973-973r), and other applicable law.

The HSFCA implements the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993, and establishes a system of permitting, reporting, and regulation for U.S. vessels fishing on the high seas. The MSA governs the conduct of U.S. fisheries, primarily through fishery management plans developed by the Regional Fishery Management Councils and approved by the Secretary of Commerce. The SPTA implements the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (South Pacific Tuna Treaty), and includes licensing and other requirements and restrictions for U.S. purse seine vessels fishing in the area of application of the South Pacific Tuna Treaty.

Authority to administer and enforce the Act, including the authority to promulgate regulations, is given to the Secretary of Commerce (Secretary). In promulgating regulations, the Secretary is directed to consult with the Secretary of State and the Secretary of the Department in which the United States Coast Guard (USCG) is operating.

This proposed rule would implement only those provisions of the Convention that are fully specified; that is, provisions for which no further action is required by the WCPFC prior to implementation. For example, the WCPFC has adopted procedures for boarding and inspection of fishing vessels on the high seas in the Convention Area, as called for in Article 26 of the Convention. Consequently, the Convention's provisions on high seas boarding and inspection, including the procedures adopted by the WCPFC, would be implemented via this proposed rule. Certain Convention provisions will require further elaboration by the WCPFC before they can be implemented. As an example, Article 29 of the Convention calls for the WCPFC to develop procedures to monitor transshipments in the Convention Area. Those procedures have not yet been adopted by the WCPFC; therefore regulations to implement them are not included in this proposed rule.

Description of the Proposed Action

The proposed rule is described below in terms of its 10 main elements.

1. Authorization to fish

Owners or operators of U.S. vessels used for commercial fishing for HMS on the high seas in the Convention Area would be required to obtain a new NMFS-issued fishing authorization, called a "WCPFC Area Endorsement." Fishing would be defined, consistent with its definition under the Act, to specifically include receiving fish from another fishing vessel and bunkering or otherwise supplying or supporting a vessel that engages in fishing. Thus, carriers that receive HMS from another vessel, vessels that bunker vessels used to fish for HMS, and vessels that engage in operations at sea directly in support of, or in preparation for, fishing or transshipping by other vessels would be subject to this and other requirements of the proposed rule. This new authorization would be issued by the Regional Administrator of NMFS, Pacific Islands Region, supplemental to, and as an endorsement on, the permits issued under the authority of the HSFCA (high seas fishing permits; see 50 CFR 300.13). The prerequisites to obtaining a WCPFC Area Endorsement would be: having a valid high seas fishing permit (or simultaneously applying for one), submitting a complete application (see the next item, "vessel information"), and paying the required administrative fee. The application form would be designed as a supplement to the application for a high seas fishing permit. The WCPFC Area Endorsement would become void upon expiration, suspension, or revocation of the underlying high seas fishing permit. The WCPFC Area Endorsement is also subject to suspension or revocation independent to the high seas fishing permit. Holding a WCPFC Area Endorsement would trigger a number of other requirements, as described in the elements that follow.

2. Vessel information

Vessel owners and operators that apply for WCPFC Area Endorsements would be required to submit to NMFS, in their application forms for WCPFC Area Endorsements, specified information about the vessel and its operator (i.e., the master on board and in charge of the vessel) that is not already collected via the high seas fishing permit application. This information includes the name and nationality of the vessel operator (or operators); the communication types used on the vessel (e.g., single sideband

radio, voice Inmarsat, fax Inmarsat, e-mail Inmarsat, telex Inmarsat, or other type of satellite telephone), along with the communication service used and the identifying/contact number for each; the fishing methods used or intended to be used; the vessel's fish hold capacity, expressed in terms of either cubic meters or short tons; and the vessel's refrigeration and freezer capacity, including the types of refrigeration and freezer systems on board, the number of refrigeration and freezer units of each type, and the total refrigerating or freezing capacity of each type of system.

In addition, a bow-to-stern side-view photograph of the vessel in its current form and appearance, and in any case no older than five years, would have to be submitted to NMFS. The photograph could be in either paper or electronic format and must meet certain minimum specifications in terms of its size and resolution and the legibility of the vessel markings. Although the international radio call sign assigned to a given vessel is already collected in high seas fishing permit applications, an indication of whether or not an international radio call sign has been assigned to the vessel and what it is also would have to be submitted to NMFS by applicants for WCPFC Area Endorsements. This is because of the importance under the Convention of a vessel's international radio call sign (e.g., see paragraph below on "vessel identification") and NMFS' need to verify that that the collected information is accurate. WCPFC Area Endorsement holders would have to submit to NMFS any subsequent changes to the submitted information within 15 days of the change.

In addition, owners or operators of any U.S. vessel used for fishing for HMS in the Convention Area in areas under the jurisdiction of any nation other than the United States (i.e., vessels for which a WCPFC Area Endorsement would not necessarily be required) would be required to submit to NMFS information about the vessel, its owners and operators and any fishing authorizations issued by such other nations. Specifically, all the information specified in the application for high seas fishing permits and in the application for WCPFC Area Endorsements would be required, as well as, for each fishing authorization issued by a nation or political entity other than the United States, the name of the nation or political entity, the name of the issuing authority, the authorization type, the period of validity, the specific activities authorized, the species for which fishing is authorized, the areas in which fishing is authorized, and any unique

identifiers assigned to the authorization. Copies of any such fishing authorizations also would have to be submitted to NMFS. This information would be collected via a new form (Foreign EEZ Form) designed for this purpose, and vessel owners/operators would be required to submit to NMFS any subsequent changes to the submitted information within 15 days of the change.

The collected information referred to above would be incorporated by NMFS into a record of U.S. fishing vessels authorized to be used for commercial fishing for HMS in the Convention Area beyond areas of U.S. jurisdiction. In accordance with the Convention, NMFS would keep this record updated and share it with the WCPFC, which would combine it with the records of its other Members and Cooperating Non-Members and make it publicly available via its website and other means.

3. Vessel monitoring system

Owners and operators of vessels with WCPFC Area Endorsements would be required to have installed, activate, carry and operate vessel monitoring system (VMS) units (also known as "mobile transmitting units") that are type-approved by NMFS, and authorize the WCPFC and NMFS to receive and relay transmissions (also called "position reports") from the VMS unit to the WCPFC and to NMFS. The WCPFC and NMFS would use the position reports as part of their respective VMS. Activation of a VMS unit would be required any time the unit is installed or reinstalled, any time the mobile communications service provider has changed, and any time directed by NMFS. Activation would involve submitting to NMFS a report via mail, facsimile or email with information about the vessel, its owner or operator, and the VMS unit, as well as receiving confirmation from NMFS that the VMS unit is transmitting position reports properly. The VMS unit would have to be turned on and operating (i.e., transmitting automated position reports) at all times while the vessel is at sea, both inside and outside the Convention Area. The VMS unit may be turned off while the vessel is in port, but only if the vessel operator notifies NMFS via mail, facsimile or email prior to such shut-down. In such cases, NMFS must also be notified when the VMS unit is subsequently turned back on (these two types of notifications are called "on/off reports"), and the vessel operator must receive confirmation from NMFS that the VMS unit is functioning properly prior to leaving port. In the case of failure of the

VMS unit while at sea, the vessel operator would be required to contact NMFS and follow the instructions provided by NMFS, which could include, among other actions: submitting position reports at specified intervals by other means, ceasing fishing, stowing fishing gear, and/or returning to port; and repairing or replacing the VMS unit and ensuring it is operable before starting the next trip. To facilitate communication with management and enforcement authorities about the functioning of the VMS unit and other purposes, operators of vessels with WCPFC Area Endorsements would be required to carry on board and continuously monitor while at sea a two-way communication device capable of real-time communication with NMFS in Honolulu. For the purpose of submitting position reports that might be required in the case of VMS unit failure, vessel operators must also carry on board a communication device capable of transmitting, while the vessel is on the high seas in the Convention Area, communications by telephone, facsimile, email, or radio to the WCPFC in Pohnpei, Micronesia.

The vessel owner and operator would be responsible for all costs associated with the purchase, installation and maintenance of the VMS unit, and for all charges levied by the mobile communications service provider as necessary to ensure the transmission of automatic position reports to NMFS. However, if the VMS unit is being carried and operated in compliance with the requirements in 50 CFR part 300, 50 CFR part 660, or 50 CFR part 665 relating to the installation, carrying, and operation of VMS units, the vessel owner and operator would not be responsible for costs that are the responsibility of NMFS under those regulations. In addition, the vessel owner and operator would not be responsible for the costs of transmitting the automatic position reports to the WCPFC.

NMFS publishes separately type-approval lists of VMS units. The current type-approval lists can be obtained from NMFS, Office of Law Enforcement, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910; by telephone at 888-210-9288; or by fax at 301-427-0049.

The proposed rule is worded so as to avoid duplication with other VMS requirements, such as those established under the MSA and the SPTA. Compliance with the existing VMS requirements at 50 CFR part 300, 50 CFR part 660, and 50 CFR part 665 would satisfy this new requirement, provided that the VMS unit is type-

approved by NMFS specifically for fisheries governed under the Act, the VMS unit is operated continuously at all times while the vessel is at sea, the vessel owner and operator have authorized the WCPFC and NMFS to receive and relay transmissions from the VMS unit, and the proposed requirements in case of VMS unit failure are followed.

4. Vessel observer program

When in the Convention Area, the operator of a vessel with a WCPFC Area Endorsement or a vessel used in areas under the jurisdiction of another Member of the WCPFC would be required to accept on board and accommodate observers deployed as part of the WCPFC "Regional Observer Programme" (WCPFC ROP). Such observers would include persons designated by the WCPFC Secretariat, by the United States or by other Members of the WCPFC. Persons would be designated as WCPFC observers by the United States or other WCPFC Members only if the national or sub-regional observer program that deploys such observers has been authorized by the WCPFC to be a part of the WCPFC ROP. Once an observer program of NMFS is determined by the WCPFC to meet specified minimum standards and incorporated into the WCPFC ROP, relevant data collected in the NMFS program would be submitted to the WCPFC and maintained and used by the WCPFC as data in its larger WCPFC ROP.

It is anticipated that the NMFS observer program operating out of Honolulu, Hawaii, and Pago Pago, American Samoa, will be among the first national observer programs to be authorized to be part of the WCPFC ROP (it has already received interim authorization until July 1, 2012; full authorization would be granted subsequent to a successful audit of the program). Consequently, there would be little, if any, change in the placement of observers on vessels in the longline fleets based in Hawaii and American Samoa. The WCPFC Secretariat may place an occasional observer as part of an auditing process to ensure that national and sub-regional observer programs are operating up to WCPFC standards. It is also anticipated that U.S. purse seine vessels operating under the SPTA would continue to carry observers from the Pacific Islands Forum Fisheries Agency (FFA) observer program (a sub-regional observer program). If the FFA is unable to provide observers to meet increased coverage levels mandated by the WCPFC, those vessels may make

other arrangements to obtain WCPFC-approved observers.

The responsibilities of vessel operators and crew members with respect to observers would include allowing and assisting observers to: embark and disembark at agreed times and places; have access to and use of all facilities and equipment on board that are necessary to conduct observer duties; remove samples; and carry out all duties safely. The vessel operator also would be responsible for providing observers, while on board the vessel, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel. In the case of longline vessels in the Hawaii and American Samoa fleets, however, costs incurred for providing subsistence for NMFS observers would be eligible for reimbursement, as currently provided at 50 CFR 665.28.

5. Vessel identification

Vessels with WCPFC Area Endorsements would be required to be marked in accordance with the Convention's requirements, which are based on the FAO Standard Specifications for the Marking and Identification of Fishing Vessels. Specifically, if assigned an international radio call sign (IRCS), the port and starboard sides of a vessel's hull or superstructure, as well as a deck, would have to be marked with the IRCS; if not assigned an IRCS, it would have to be marked with its official number (i.e., USCG documentation number or state or tribal registration number), preceded by the characters "USA" and a hyphen. In both cases, the specified marking would be the only allowable marking on the hull or superstructure apart from the vessel's name and hailing port. The markings would have to be placed so that they are clear, distinct, uncovered, and unobstructed. Any boats, skiffs, or other watercraft that are carried on board the vessel also would have to be marked with the same identifier as the fishing vessel. For some affected vessels, this marking requirement would conflict with other existing vessel marking requirements, such as those at 50 CFR 300.14 (under the HSFCA; applicable to vessels used for fishing on the high seas), 50 CFR 300.173 (under the legislation implementing the U.S.-Canada Albacore Treaty; applicable to vessels used for fishing under that treaty), 50 CFR 660.704 (under the MSA; applicable to vessels in West Coast HMS fisheries), and 50 CFR 665.16 (under the MSA; applicable to vessels in western Pacific fisheries). Accordingly, the requirement at 50 CFR 300.14 would be

slightly modified in this proposed rule to make it consistent with this new requirement. The Pacific Fishery Management Council and the Western Pacific Fishery Management Council are evaluating whether there is a need to change the other three sets of regulations in order to remove potential conflicts with this proposed rule, if implemented. If the Councils recommend such changes, their recommendations would be subject to the approval of NMFS and would be implemented by NMFS through the rulemaking process.

6. Transshipment restrictions

Offloading fish from or receiving fish from a purse seine vessel at sea in the Convention Area would be prohibited. Transshipping at sea is already regulated for U.S. purse seine vessels licensed under the SPTA.

7. Reporting and recordkeeping

The owner or operator of any U.S. vessel used for commercial fishing for HMS anywhere in the Pacific Ocean would be required to maintain and submit to NMFS information on fishing effort and catch. The proposed rule would be worded so as to avoid duplication with other effort and catch reporting requirements, particularly those established under the MSA, the HSFCA, the Tuna Conventions Act of 1950 (16 U.S.C. 951–961 *et seq.*), the SPTA, and the implementing legislation for the U.S.-Canada Albacore Treaty, as well as relevant State reporting requirements. Specifically, compliance with other existing reporting requirements would satisfy this new Act-mandated reporting requirement. The main effect of these proposed reporting requirements would be to collect fishing effort and catch information under the authority of the Act, which would enable NMFS to meet the reporting requirements of the WCPFC in accordance with the Convention and the decisions of the WCPFC. Confidentiality of information would be protected and handled by NOAA as required under U.S. laws, including the Act and the regulations proposed here (see element 10 below). Once the information is submitted by NOAA to the WCPFC, it would be handled in accordance with policies and procedures adopted by the WCPFC.

8. Compliance with the laws of other nations

A vessel with a WCPFC Area Endorsement would be prohibited from being used for fishing in areas under the jurisdiction of another nation unless it holds any license, permit or

authorization that may be required by such nation to do so. When a vessel with a WCPFC Area Endorsement operates in the Convention Area in areas under the jurisdiction of a Member of the WCPFC other than the United States, it would have to be operated in compliance with the laws of that Member.

Additionally, the owner and operator of any U.S. fishing vessel used in the Convention Area in an area under the jurisdiction of another Member of the WCPFC, if used for fishing for, retaining on board or landing HMS, would be required to comply with the relevant laws of that Member, including any laws related to the use of VMS units.

9. Facilitation of enforcement and inspection

The operator and crew of a vessel with a WCPFC Area Endorsement, when in the Convention Area, would be subject to the following requirements:

- Carry on board any fishing authorizations issued by another nation or political entity, or copies thereof, and make them available to specified authorities, depending on the area of jurisdiction the vessel is in;
- Continuously monitor the international safety and calling radio frequency (156.8 MHz; Channel 16, VHF-FM) and, if equipped to do so, the international distress and calling radio frequency (2.182 MHz);
- Carry on board a copy of the International Code of Signals; and
- When engaged in transshipment, allow and assist transshipment monitors authorized by the WCPFC (if on the high seas) or other Members of the WCPFC (if within their areas of jurisdiction) to inspect the vessel and gather information and samples.

In addition, the operator of any U.S. fishing vessel that is used for commercial fishing for HMS, when present in the Convention Area in an area in which it is not authorized to fish (e.g., on the high seas without a valid WCPFC Area Endorsement or in an area under the jurisdiction of another nation without an authorization from that nation to fish in the area), would be required to stow all fishing gear and equipment so such materials are not readily available for fishing.

Further, the operator of any U.S. fishing vessel (regardless of the species for which it is used to fish), when on the high seas in the Convention Area, would be required to accept and assist boarding and inspection by authorized inspectors of other Contracting Parties to the Convention and, if agreed to by the United States, authorized inspectors of fishing entities that have agreed to be

bound by the regime established by the Convention, such as Chinese Taipei (Taiwan), provided that such boarding and inspection is undertaken in conformance with the WCPFC's adopted procedures.

10. Confidentiality of information

As mandated by the Act, the proposed rule would include procedures designed to preserve the confidentiality of information submitted in compliance with the Act and its implementing regulations. In accordance with the Convention, the proposed procedures would allow for the disclosure of confidential information to the WCPFC. Once such information is held by the WCPFC, access to the information would be governed by the policies and procedures adopted by the WCPFC.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Western and Central Pacific Fisheries Convention Implementation Act and other applicable laws, subject to further consideration after public comment.

National Environmental Policy Act

NMFS has prepared a draft EA that discusses the expected impacts that implementation of this proposed rule would have on the environment. A copy of the draft EA is available from NMFS and NMFS invites public comments on the draft EA (see **ADDRESSES**).

Executive Order 12866

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

Regulatory Flexibility Act

An IRFA was prepared, as required by section 603 of the RFA. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The analysis follows:

There would be no disproportionate economic impacts between small and large entities operating vessels resulting from this rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or homeport.

The proposed rule would apply to owners and operators of U.S. vessels used for fishing in the Pacific Ocean. Most elements of the proposed rule would apply to smaller subsets of that

pool of vessels; as shown in Table 1. The numbering of the elements in Table 1 corresponds to the numbering used in the descriptions earlier in this section of the preamble. Table 1 also shows estimates of the numbers of vessels, broken down by vessel type where possible, to which each element of the proposed rule would apply. Based on (limited) financial information about the

affected fishing fleets, NMFS believes that with the exception of most vessels in the purse seine and carrier and support vessel fleets, virtually all the affected vessels are owned by small business entities (i.e., they have gross annual receipts of no more than \$4.0 million). In the purse seine fleet, NMFS believes that as many as 10 of the affected vessels are owned by small

entities. In the carrier and support vessel fleet, NMFS believes that no vessels are owned by small entities. The estimated numbers of small entities that would be affected by each element of the proposed rule are shown in parentheses in the last column of Table 1.

TABLE 1. DESCRIPTIONS AND NUMBERS OF VESSELS AND SMALL ENTITIES TO WHICH THE PROPOSED RULE WOULD APPLY

Element of proposed rule	Description of vessels to which element would apply	Estimated number of vessels (and small entities) to which element would apply
1. Authorization to fish,	Vessels used for commercial fishing for HMS on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)
2a. Vessel information high seas	Vessels used for commercial fishing for HMS on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)
2b. Vessel information foreign jurisdictions	Vessels used for commercial fishing for HMS in foreign jurisdictions in Convention Area.	Longline, troll, support 20 (20) Purse seine 40 (10) Total 60 (30)
3. VMS	Vessels used for commercial fishing for HMS on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)
4a. Vessel observer program high seas	Vessels used for commercial fishing for HMS on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5(0) Total 253 (218)
4b. Vessel observer program foreign jurisdictions	Vessels used for commercial fishing for HMS in areas under jurisdiction of other WCPFC members in Convention Area.	Longline, troll, support 20 (20) Purse seine 40 (10) Total 60 (30)
5. Vessel identification	Vessels used for commercial fishing for HMS on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)
6. Transshipment restrictions	Purse seine vessels used for fishing in Convention Area and vessels used to receive fish in Convention Area.	Longline 0 (0) Purse seine 40 (10) Troll 0 (0) Support 5 (0) Total 45 (10)
7. Reporting and recordkeeping	Vessels used for commercial fishing for HMS in Pacific Ocean.	Total 5,000 (5,000)
8a. Compliance with the laws of other nations high seas	Vessels used for commercial fishing for HMS on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)
8b. Compliance with the laws of other nations jurisdictions of other WCPFC members	Vessels used for commercial fishing for HMS in areas under the jurisdiction of other WCPFC members.	Longline, troll, support 20 (20) Purse seine 40 (10) Total 60 (30)
9a. Facilitation of enforcement and inspection HMS fishing	Vessels used for commercial fishing for HMS in the Convention Area on high seas or in areas under the jurisdiction of other nations.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)
9b. Facilitation of enforcement and inspection—all fishing	Fishing vessels used on high seas in Convention Area.	Longline 139 (139) Purse seine 40 (10) Troll 69 (69) Support 5 (0) Total 253 (218)

TABLE 1. DESCRIPTIONS AND NUMBERS OF VESSELS AND SMALL ENTITIES TO WHICH THE PROPOSED RULE WOULD APPLY—
Continued

Element of proposed rule	Description of vessels to which element would apply	Estimated number of vessels (and small entities) to which element would apply
10. Confidentiality of information	None	Longline 0 (0) Purse seine 0 (0) Troll 0 (0) Support 0 (0) Total 0 (0)

The reporting, recordkeeping and other compliance requirements of this proposed rule are described earlier in the preamble. The classes of small entities subject to the requirements and the types of professional skills necessary to fulfill the requirements are as follows:

(1) Authorization to fish: This requirement would not impose any new reporting or recordkeeping requirements (within the meaning of the Paperwork Reduction Act, or PRA), but in order to obtain the authorization vessel owners/operators would have to pay a fee calculated to cover NMFS' administrative costs incurred to issue the authorization, projected to be about \$25 per five-year period. Approximately 218 small business entities would be subject to the requirement. Obtaining the authorization would be accomplished through completion and submission of an application form, as described in element (2) on vessel information.

(2) Vessel information: This requirement is part of a proposed collection of information subject to approval by the Office of Management and Budget (OMB) under the PRA. It would require a vessel owner or operator to complete one or both of two forms (one for vessels used on the high seas in the Convention Area and the other for vessels used in foreign jurisdictions in the Convention Area) designed to collect information about the subject vessel and its owner and operator. Approximately 218 small business entities would be subject to the high seas component of the requirement, and about 30 to the foreign jurisdictions component. A total of about 238 small business entities would be subject to one or the other component (i.e., about 10 would be subject to both). For an entity subject to both the high seas component and the foreign jurisdictions component, it is estimated that about 90 minutes of labor and \$1 in mailing costs would be required twice every five years. If the value of the required labor were \$50 per hour, the annual cost of compliance would therefore be about \$30 per affected entity. The labor requirements

and associated costs would be slightly less for entities subject to just one or the other of the two components.

Fulfillment of this requirement is not expected to require any professional skills that the vessel owners and operators do not already possess.

(3) VMS: This requirement is part of a proposed collection of information subject to approval by the OMB under the PRA. It would apply to about 218 small business entities. Most of these entities, however, are subject to similar existing VMS requirements and would thus be already in compliance with most aspects of this requirement. It is estimated that about 73 of the estimated 218 affected small entities would have to purchase, install and activate a new VMS. The 73 include the business entities involved in the albacore longline fleet (69) and those operating longline vessels that are not based in either Hawaii or American Samoa (4). Compliance for each of these approximately 73 small entities would involve the following approximate annualized costs: \$1,000 for the purchase and installation of VMS units (based on \$4,000 per unit and a lifespan of 4 years per unit), \$250 for VMS unit maintenance, and \$375 for VMS unit operation (i.e., the transmission of automatic vessel position reports to NMFS), for a total of about \$1,625 to \$1,775 per year. In addition, about 2.5 person-minutes of labor for VMS unit activation reports, 25 person-minutes of labor for VMS unit on/off reports, 1 person-hour of labor for VMS unit purchase installation, and 1 person-hour of labor for VMS unit maintenance, on average, would be needed to comply.

The compliance cost of obtaining, carrying on board, and monitoring the required communication devices is expected to be zero, as it is believed that all affected small entities already carry and monitor such devices. The 145 affected small entities that are already subject to VMS requirements would not bear any compliance costs as a result of these new requirements. Fulfillment of this requirement is not expected to require any professional skills that the

vessel owners and operators do not already possess.

(4) Vessel observer program: This requirement would not impose any new reporting or recordkeeping requirements (within the meaning of the PRA). Approximately 218 small business entities would be subject to the high seas component of the requirement, and about 30 to the foreign jurisdictions component. A total of about 238 small business entities would be subject to one or the other component (i.e., about 10 would be subject to both). Affected small entities would be responsible for the costs associated with providing WCPFC observers with food, accommodations, and medical facilities.

Assuming that the observer programs administered by NMFS are authorized by the WCPFC to be part of the WCPFC ROP (again, the NMFS observer program has already received interim authorization valid until July 1, 2012), observers deployed by NMFS pursuant to regulations issued under other statutory authorities would be deemed to be WCPFC observers deployed in accordance with this new requirement. As such, vessel owners and operators would be subject to the costs and burdens associated with those other regulatory requirements. For example, in the case of longline vessels in the Hawaii and American Samoa fleets, costs incurred for providing subsistence for NMFS observers would be eligible for reimbursement, as currently provided at 50 CFR 665.28.

The frequency of deployment of WCPFC observers would be determined by the WCPFC, so it is not possible to accurately predict how often a given business entity would be required to accommodate a WCPFC observer. For the purpose of this analysis, it is assumed that observer coverage rates will be equal to the current target observer coverage levels established by the WCPFC for its ROP, which is 5 percent for all fleets except purse seine fleets, as described further below.

The recent coverage rates in the Hawaii and American Samoa fleets (at least 20 percent and about 10 percent, respectively) are in excess of the

WCPFC target coverage rate of 5 percent, so NMFS does not anticipate any substantial changes in the deployment rates to affected small entities in those fisheries, or any associated costs. Longline vessels not operating under Hawaii or American Samoa longline permits (e.g., vessels based in the Mariana Islands or on the U.S. west coast) are not currently subject to observer requirements, so entities that operate such vessels would bear new compliance costs, including the cost of providing food, accommodation, and medical facilities to observers (termed here "observer accommodation costs"). These costs are expected to be about \$20 per day (this is consistent with the amounts reimbursed by NMFS to owners of longline vessels for observer subsistence costs pursuant to 50 CFR 665.28(i)(1)). Assuming that an affected longline vessel spends 250 days at sea each year in the Convention Area on the high seas or in areas under foreign jurisdiction, its annual observer accommodation costs, at a 5 percent coverage rate, would be about \$250.

Recent observer coverage rates in the purse seine fleet are about 20 percent. However, a recent WCPFC decision (in Conservation and Management Measure 2008-01) requires 100 percent coverage in 2010 and 2011. For the purpose of this analysis, it is assumed that a 100 percent coverage rate would be required indefinitely. Assuming, based on logbook data, that an affected purse seine vessel spends 330 days at sea each year, and, as described above for longline vessels, \$20 per observed-sea-day in observer accommodation costs, annual observer accommodation costs at 100 percent coverage would be about \$6,600 per vessel. Of these estimated costs, 80 percent, or \$5,280 per vessel, would be "new" annual costs associated with this proposed requirement. Pursuant to the terms of the SPTT, entities in the purse seine fleet bear not only the costs of feeding and accommodating observers on board, but also certain costs imposed by the FFA for the operation of its observer program as it is applied to the U.S. purse seine fleet. Based on the budget for the FFA observer program for the 2008-2009 SPTT licensing period, which is based on a 20 percent coverage rate, the annual cost per vessel is approximately \$8,630. According to the budget, about 28 percent of those costs are fixed costs (as opposed to per-trip costs). It is not known how the fixed component of costs would change with an increase in coverage to 100 percent. Assuming that fixed costs do not change at all, the annual cost per vessel at 100 percent

coverage would be about \$33,440. If, on the other hand, fixed costs increase in proportion to the level of observer coverage, the annual cost per vessel at 100 percent coverage would be about \$43,150. Of these estimated per-vessel costs, 80 percent, or \$26,750 to \$34,520, would be new annual costs associated with this proposed requirement. Together with observer accommodation costs (\$5,280), the total per-vessel costs would be \$32,000 to \$39,800 per purse seine vessel.

Although the WCPFC target coverage rate for troll vessels is 5 percent, the WCPFC has not established a firm implementation schedule for troll vessels, so 5 percent coverage is not expected to be sought or attained for at least a few years. Nevertheless, for the purpose of this analysis, estimated compliance costs are based on a 5-percent coverage rate. There are currently no observer requirements for the albacore troll fleet (but observers are occasionally taken on a voluntary basis), so small entities that operate albacore troll vessels could be subject to an increase in deployment rates from zero to approximately one per 20 trips in the Convention Area. Affected entities would be responsible for observer accommodation costs, which, as described above for longline vessels, are expected to be about \$20 per day. Assuming, based on logbook information, that an affected albacore troll vessel spends 170 to 350 days at sea each year on trips in the Convention Area on the high seas or in areas under foreign jurisdiction, annual observer accommodation costs would be \$170 to \$350.

NMFS does not anticipate any small entities to operate support vessels, so no further analysis of observer-related costs for support vessels is provided here.

Fulfillment of this requirement is not expected to require any professional skills that the vessel owners and operators do not already possess.

(5) Vessel identification: This requirement is part of collections of information approved by the OMB under the PRA (OMB control numbers 0648-0348, 0648-0360, 0648-0361, and 0648-0492). Approximately 218 small business entities would be subject to the requirement. All of these entities, however, are already subject to similar vessel marking requirements. Because vessels and their markings are periodically repainted, the proposed rule would not impose any new continuing burden on any entity; it would change (for all affected entities except those associated with the purse seine vessels) only the specifications of the markings that are required.

However, all the affected entities, with the exception of those associated with the purse seine vessels, would have to immediately change their vessel markings. The cost of doing so is approximately \$250 per vessel, including labor and materials; these costs would be borne by each of the approximately 208 affected small entities. Fulfillment of this requirement is not expected to require any professional skills that the vessel owners and operators do not already possess.

(6) Transshipment restrictions: This requirement would not impose any new reporting or recordkeeping requirements (within the meaning of the PRA). Approximately 10 small business entities would be subject to the requirement. Complying would require that owners and operators of purse seine vessels and receiving vessels refrain from engaging in transshipments from purse seine vessels at sea in the Convention Area. Purse seine vessels are already subject to substantial restrictions on at-sea transshipments under the SPTA, and purse seine vessels consequently do not, in practice, transship at sea. Accordingly, this requirement would impose essentially no compliance burden on affected entities. Fulfillment of this requirement is not expected to require any professional skills that the vessel owners and operators do not already possess.

(7) Reporting and recordkeeping: This requirement is part of a collection of information approved by the OMB under the PRA (OMB control numbers 0648-0214, 0648-0218, 0648-0223, 0648-0349, 0648-0492, and 0648-0498). The number of affected small entities is roughly estimated at 5,000. However, all of the affected entities are subject to existing similar (Federal and/or State) recordkeeping and reporting requirements and would thus be in compliance with this requirement and would not bear any additional reporting or recordkeeping burden as a result of this proposed rule.

(8) Compliance with the laws of other nations: This requirement would not impose any new reporting or recordkeeping requirements (within the meaning of the PRA). Approximately 218 small business entities would be subject to the high seas component of the requirement, and about 30 to the foreign jurisdictions component. A total of about 238 small business entities would be subject to one or the other component (i.e., about 10 would be subject to both). Fulfillment of this requirement is not expected to require any professional skills that the vessel

owners and operators do not already possess.

(9) Facilitation of enforcement and inspection: This requirement would not impose any new reporting or recordkeeping requirements (within the meaning of the PRA). Approximately 218 small business entities would be subject to the requirement. Fulfillment of this requirement is not expected to require any professional skills that the vessel owners and operators and crew members do not already possess.

(10) Confidentiality of information: This requirement would not impose any new reporting or recordkeeping requirements (within the meaning of the PRA), and it would not apply to any small entities (it would prescribe procedures for NOAA to follow in protecting and disseminating confidential information, including information submitted by owners and operators of fishing vessels and information collected by vessel observers).

A number of Federal rules overlap or conflict with the proposed rule, as described below for each of the 10 elements of the proposed rule:

(1) Authorization to fish: The existing requirement under the HSFCA to obtain a high seas fishing permit (50 CFR 300.13) overlaps with the proposed authorization requirement in that both require a NMFS-issued authorization in order to use a vessel for commercial fishing for HMS on the high seas in the Convention Area. The existing high seas permit requirement has a broader scope, applying to the use of a vessel for commercial fishing for any species on the high seas anywhere in the world. The proposed authorization (the WCPFC Area Endorsement) would be required in addition to the high seas fishing permit.

(2) Vessel information: Some of the information that would be required from owners or operators of vessels used to fish commercially for HMS in the Convention Area on the high seas or in foreign jurisdictions overlaps with information collected under existing regulations. This includes information required for vessels using longline or troll fishing gear in the area of competence of the Inter-American Tropical Tuna Commission (50 CFR 300.22) and information required to obtain the following fishing authorizations: high seas fishing permits (50 CFR 300.13), licenses issued under the SPTA (50 CFR 300.32), permits for West Coast HMS fishing vessels (50 CFR 660.707), and permits for Western Pacific pelagic fishing vessels (50 CFR 665.21).

(3) VMS: The proposed requirement for owners and operators of vessels used for commercial fishing for HMS on the high seas in the Convention Area to install, activate and operate VMS units would be similar to existing VMS requirements at 50 CFR Part 300, 50 CFR Part 660 and 50 CFR Part 665. However, the proposed requirement would be consistent with the aforementioned existing requirements, such that vessels operating in accordance with relevant elements of the applicable existing regulations would also be operating in accordance with the relevant elements of the new requirements (the proposed requirements also include elements that do not overlap with any existing requirements). Thus, there would be no duplication in the compliance burden.

(4) Vessel observer program: The proposed requirement that operators of vessels used for commercial fishing for HMS in the Convention Area (either on the high seas or in areas under the jurisdiction of other WCPFC members) accept and accommodate observers deployed as part of the WCPFC ROP would overlap with existing requirements at 50 CFR 300.43 (South Pacific tuna fisheries) 50 CFR 660.719 (West Coast HMS fisheries) and 50 CFR 665.28 (Western Pacific pelagic fisheries), which require that vessel owners and operators accept and accommodate observers under various authorities. In general, the new requirement would supplement the existing requirements. However, the WCPFC ROP will incorporate existing sub-regional and national observer programs that the WCPFC determines to meet certain standards. It is likely that the sub-regional program implemented under the South Pacific Tuna Treaty (in the case of 50 CFR 300.43) and the national programs implemented by NMFS (in the cases of 50 CFR 660.719 and 50 CFR 665.28) will be incorporated into the WCPFC ROP. It is anticipated that once these programs are incorporated and the WCPFC relies on the information that is collected through them, the new requirement would not impose an additional compliance burden.

(5) Vessel identification: The proposed vessel identification requirement would conflict in certain respects with existing requirements at 50 CFR 300.173, 50 CFR 660.704, and 50 CFR 665.16 for any vessel that is both subject to any of the latter three requirements and that is used to fish commercially for HMS on the high seas in the Convention Area. NMFS intends to modify the three sets of existing requirements to make them compatible

with the proposed new requirement. The new requirement would be made effective only if and when the conflicts (for a given set of vessels) are removed.

The proposed requirement overlaps with the existing vessel identification requirement under the HSFCA (50 CFR 300.14) in that both prescribe vessel marking requirements for vessels used for commercial fishing for HMS on the high seas in the Convention Area. The existing requirement under the HSFCA has a broader scope, applying to the use of a vessel for commercial fishing for any species on the high seas anywhere in the world.

The proposed requirement would overlap with 50 CFR 300.35, which applies to purse seine vessels licensed under the SPTA and to the South Pacific Tuna Treaty Area.

The proposed requirement under the Act conflicts in certain respects with 50 CFR 300.14 in its current form, but the proposed rule would modify 50 CFR 300.14 to make it compatible with the proposed requirement.

(6) Transshipment restrictions: The proposed prohibition on transshipments that involve fish offloaded from purse seiners at sea in the Convention Area overlaps with the existing requirement under the SPTA (50 CFR 300.46), which prohibits purse seine vessels licensed under the SPTA from being used to transship at sea in the South Pacific Tuna Treaty Area except when done in accordance with such terms and conditions as may be agreed between the vessel operator and the State in whose jurisdiction the transshipment would take place.

(7) Reporting and recordkeeping: The proposed requirement for owners and operators of vessels used for commercial fishing for HMS anywhere in the Pacific Ocean to maintain and submit to NMFS information about their fishing effort and catch would overlap with existing reporting requirements at 50 CFR 300.17 (high seas fisheries), 50 CFR 300.22 (Pacific tuna fisheries), 50 CFR 300.174 (Canada albacore fisheries), 50 CFR 300.34 (South Pacific tuna fisheries), 50 CFR 660.708 (West Coast HMS fisheries) and 50 CFR 665.14 (western Pacific pelagic fisheries). The proposed requirement would be satisfied by complying with the applicable existing requirements; thus, there would be no duplication in the reporting or compliance burden. The reason for the overlapping requirement is that the information must be collected under the authority of the Act in order for NMFS to be able to provide it to the WCPFC, as NMFS is obligated to do under the Convention.

(8) Compliance with the laws of other nations: No duplicating, overlapping or conflicting Federal regulations have been identified.

(9) Facilitation of enforcement and inspection: The proposed requirement for operators of vessels that are used for commercial fishing for HMS on the high seas in the Convention Area to continuously monitor the international safety and calling frequency (156.8 MHz; Channel 16, VHF-FM) and, if equipped to do so, the international distress and calling frequency (2.182 MHz) overlaps with 50 CFR 300.37, which requires operators of purse seine vessels licensed under the SPTA to continuously monitor both frequencies. The proposed requirement for operators of vessels that are used for commercial fishing for HMS on the high seas in the Convention Area to carry on board and make accessible a copy of the International Code of Signals overlaps with 50 CFR 300.35, which requires operators of purse seine vessels licensed under the SPTA to do the same. The proposed requirement for operators of vessels that are used for commercial fishing for HMS on the high seas in the Convention Area to accept and accommodate the transshipment monitors authorized by other members of the WCPFC when conducting transshipments in areas under the jurisdiction of such members would overlap with 50 CFR 300.46, which applies to purse seine vessels licensed under the SPTA and to the South Pacific Tuna Treaty Area. The proposed requirement for operators of vessels that are used for commercial fishing for HMS in the Convention Area on the high seas or in areas under the jurisdiction of other nations, when in areas in which the vessel is not authorized to be used for fishing, to stow all fishing gear and equipment so as to not be readily available for fishing overlaps with 50 CFR 300.36, which requires operators of purse seine vessels licensed under the SPTA to do the same when in a Closed Area pursuant to the SPTA.

(10) Confidentiality of information: The proposed procedures to preserve the confidentiality of information submitted in compliance with the Act would overlap with similar procedures established under the MSA (50 CFR Subpart E), the HSFCA (50 CFR 300.17(c)), and the Marine Mammal Protection Act (50 CFR 229.11) in that the different sets of procedures would in some cases apply to the same information. The proposed procedures differ in some respects from the other sets of procedures (particularly in that the proposed procedures would allow the disclosure of confidential

information to the WCPFC), but they would not conflict with them.

NMFS has identified alternatives that would accomplish the objectives of the Act and minimize any significant economic impact of the proposed rule on small entities. The alternative of taking no action at all was rejected because it would fail to accomplish the objectives of the Act. As a Contracting Party to the Convention, the United States is required to implement the provisions of the Convention and the decisions of the WCPFC. Consequently, NMFS has limited discretion as to how to implement those provisions and decisions. Nonetheless, NMFS has identified for four of the elements of the proposed rule several alternatives that would satisfy the Convention's provisions and thus fulfill the objectives of the Act.

With respect to element (1), authorization to fish, one alternative would be to rely on the existing high seas fishing permit requirement under the HSFCA (that requirement applies to the high seas globally, not just the high seas in the Convention Area), rather than establishing an additional authorization requirement. Although this would be less costly to affected small entities than the proposed action, this alternative would fail to identify the pool of vessel owners and operators interested in fishing on the high seas in the Convention Area and subject to all the other Convention-related requirements. As a consequence, it would be difficult to conduct effective outreach and enforcement activities to achieve a high level of compliance with those requirements. A second alternative would be to create a new stand-alone permit (WCPFC Area Permit) that would be required for any vessel used for commercial fishing for HMS on the high seas in the Convention Area but which, unlike the proposed WCPFC Area Endorsement (which would be an endorsement on a high seas fishing permit), would not be related in any way to the high seas fishing permit. This would be slightly more costly to affected small entities than the WCPFC Area Endorsement.

With respect to element (2), vessel information, one alternative would be to collect the needed information separately from any permit requirement; that is, as a stand-alone requirement for vessel owners to submit specified information to NMFS. The cost to affected small entities would be about the same as that of the proposed action, but because it would not be tied to obtaining a fishing authorization, compliance with this alternative would likely be poorer than for the proposed

action. A second alternative would be to collect the needed information via the application for a WCPFC Area Permit. The cost to affected small entities under this alternative would be about the same as that of the proposed action.

With respect to element (3), VMS, one alternative would be to require that VMS units be carried and operated on vessels used for commercial fishing for HMS on the high seas in the Convention Area, but only when the subject vessel is actually on the high seas in the Convention Area. This could be slightly less costly to affected small entities because they would be allowed to disable the VMS unit when not on the high seas in the Convention Area, but because vessel operators would be allowed to operate in many areas with their VMS units disabled, compliance with this alternative while on the high seas in the Convention Area would be lower than under the proposed action. A second alternative would be to require that VMS units be carried and operated on vessels used for commercial fishing for HMS during the entirety of any trip that includes the high seas in the Convention Area. Like the previous alternative, this could be slightly less costly to affected small entities than the proposed action, but for the same reasons cited for the previous alternative, compliance with this alternative would likely be poorer than for the proposed action. A third alternative would be to require that a VMS unit be carried and operated at all times on any vessel with a WCPFC Area Permit. The costs to affected small entities under this alternative would be slightly more than under the proposed action.

With respect to the high seas boarding and inspection component of element (9), facilitation of enforcement and inspection, one alternative would be to require that only operators of vessels used to fish for HMS (rather than for any species, as being proposed) on the high seas in the Convention Area accept and facilitate boarding and inspection by authorized inspectors of other members of the WCPFC. The number of affected small entities would be smaller than under the proposed action. However, since the inspectors of other members of the WCPFC may not be able to readily distinguish U.S. vessels used for fishing for HMS (which the WCPFC's boarding and inspection regime is designed to target) from other U.S. fishing vessels, an effective boarding regime may require that U.S. fishing vessels in the latter category accept boarding from inspection vessels of other members of the WCPFC in order to verify the fishing vessel's status. By applying this

requirement to all U.S. fishing vessels, not just those used for fishing for HMS, non-HMS U.S. fishing vessels would be more prepared for the prospect of being boarded and inspected. As a consequence of such preparation, any boardings and inspections of non-HMS U.S. fishing vessels would be more likely to be completed quickly and without misunderstandings and conflict. NMFS believes that the proposed action would be safer and less costly to small entities than the alternative of applying the requirement only to operators of vessels used to fish for HMS.

Paperwork Reduction Act

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the PRA. These requirements have been submitted to OMB for approval. The public reporting burden for the vessel information requirements is estimated to average 60 minutes to complete an application for a WCPFC Area Endorsement and 90 minutes to complete a Foreign EEZ Form. The public reporting burden for the VMS requirement is estimated to average 5 minutes per activation report, 5 minutes per on/off report, 4 hours per VMS unit installation, and 1 hour per year for VMS unit maintenance. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether these collection-of-information requirements are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection-of-information requirements to William L. Robinson, Regional Administrator, NMFS PIRO (see ADDRESSES) and by e-mail to David_Rostker@omb.eop.gov or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, 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.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: May 19, 2009

John Oliver,
Deputy Assistant Administrator For
Operations, National Marine Fisheries
Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart B—High Seas Fisheries

1. The authority citation for 50 CFR part 300, subpart B continues to read as follows:

Authority: 16 U.S.C. 5501 *et seq.*

2. In § 300.14, paragraph (b)(2)(i) is revised to read as follows:

§ 300.14 Vessel Identification.

* * * * *

(b) * * *

(2) * * *

(i) A vessel must be marked with its IRCS if it has been assigned an IRCS. If an IRCS has not been assigned to the vessel, it must be marked (in order of priority) with its Federal, State, or other documentation number appearing on its high seas fishing permit and if a WCPFC Area Endorsement has been issued for the vessel under § 300.212, that documentation number must be preceded by the characters "USA" and a hyphen (that is, "USA-").

* * * * *

3. Subpart O, consisting of §§ 300.210 through 300.222, is added to part 300 to read as follows:

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

Sec.

300.210	Purpose and scope.
300.211	Definitions.
300.212	Vessel permit endorsements.
300.213	Vessel information.
300.214	Compliance with laws of other nations.
300.215	Observers.
300.216	Transshipment.
300.217	Vessel identification.
300.218	Reporting and recordkeeping requirements.
300.219	Vessel monitoring system.
300.220	Confidentiality of information.
300.221	Facilitation of enforcement and inspection.
300.222	Prohibitions.

Authority: 16 U.S.C. 6901 *et seq.*

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

§ 300.210 Purpose and scope.

This subpart implements provisions of the Western and Central Pacific Fisheries Convention Implementation Act (Act) and applies to persons and vessels subject to the jurisdiction of the United States.

§ 300.211 Definitions.

In addition to the terms defined in § 300.2 and those in the Act and in the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes (WCPFC Convention), which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High-Level Conference on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, the terms used in this subpart have the following meanings.

1982 Convention means the United Nations Convention on the Law of the Sea of 10 December 1982.

Aggregate or summary form means information structured in such a way which does not directly or indirectly disclose the identity or business of any person who submits such information.

Commercial, with respect to commercial fishing, means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

Commission means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with the WCPFC Convention, including its employees and contractors.

Confidential information means any observer information or any information submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission by any person in compliance with any requirement or regulation under the Act or under the Magnuson-Stevens Fishery Conservation and Management Act.

Conservation and management measure means those conservation and management measures adopted by the Commission pursuant to Article 10 of the WCPFC Convention.

Convention Area means all waters of the Pacific Ocean bounded to the south and to the east by the following line: From the south coast of Australia due south along the 141st meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the

150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

Fishing means using any vessel, vehicle, aircraft or hovercraft for any of the following activities, or attempting to do so:

(1) Searching for, catching, taking, or harvesting fish;

(2) Engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;

(3) Placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(4) Engaging in any operations at sea directly in support of, or in preparation for, any of the activities previously described in paragraphs (1) through (3) of this definition, including, but not limited to, bunkering;

(5) Engaging in transshipment, either unloading or loading fish.

Fishing vessel means any vessel used or intended for use for the purpose of fishing, including bunkering and other support vessels, carrier vessels and other vessels that unload or load fish in a transshipment, and any other vessel directly involved in fishing.

High seas means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

High seas fishing permit means a permit issued under § 300.13.

Highly migratory species (or HMS) means any of the following species:

Common name	Scientific name
Albacore	<i>Thunnus alalunga</i> .
Pacific bluefin tuna	<i>Thunnus orientalis</i> .
Southern bluefin tuna	<i>Thunnus maccoyii</i> .
Bigeye tuna	<i>Thunnus obesus</i> .
Skipjack tuna	<i>Katsuwonus pelamis</i> .
Yellowfin tuna	<i>Thunnus albacares</i> .
Little tuna	<i>Euthynnus affinis</i> .
Frigate mackerel	<i>Auxis thazard</i> ; <i>Auxis rochei</i> .
Pomfrets	Family <i>Bramidae</i> .
Marlins	<i>Tetrapturus angustirostris</i> ; <i>Tetrapturus audax</i> ; <i>Makaira mazara</i> ; <i>Makaira indica</i> ; <i>Makaira nigricans</i> .
Sail-fishes	<i>Istiophorus platypterus</i> .
Swordfish	<i>Xiphias gladius</i> .
Dolphinfish	<i>Coryphaena hippurus</i> ; <i>Coryphaena equiselis</i> .
Oceanic sharks	<i>Hexanchus griseus</i> ; <i>Cetorhinus maximus</i> ; Family <i>Alopiidae</i> ; <i>Rhincodon typus</i> ; Family <i>Carcharhinidae</i> ; Family <i>Sphyrnidae</i> ; Family <i>Isuridae</i> (or <i>Lamnidae</i>).

Marine Fisheries Commission means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific States Marine Fisheries Commission.

Member of the Commission means any Contracting Party to the WCPF Convention, and, unless otherwise stated in context, any territory that has been authorized by an appropriate Contracting Party to participate in the Commission and its subsidiary bodies pursuant to Article 43 of the WCPF Convention and any fishing entity that has agreed to be bound by the regime established by the WCPF Convention pursuant to Annex I of the WCPF Convention.

NOAA means the National Oceanic and Atmospheric Administration, Department of Commerce.

Observer employer/observer provider means any person that provides observers to fishing vessels, shoreside processors, or stationary floating processors under a requirement of the Act or the Magnuson-Stevens Conservation and Management Act.

Observer information means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.

Pacific Islands Regional Administrator means the Regional Administrator, Pacific Islands Region, NMFS, or a designee (1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814).

Person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Special Agent-In-Charge (or SAC) means the Special-Agent-In-Charge, NMFS Office of Law Enforcement, Pacific Islands Division, or a designee (1601 Kapiolani Blvd., Suite 950, Honolulu, HI 96814; tel: (808) 203-2500; facsimile: (808) 203-2599; email: pidvms@noaa.gov).

State means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

Transshipment means the unloading of fish from one fishing vessel and its direct transfer to, and loading on, another fishing vessel, either at sea or in port.

Vessel monitoring system (or VMS) means an automated, remote system that provides information about a vessel's identity, location and activity, for the purposes of routine monitoring, control, surveillance and enforcement of area and time restrictions and other fishery management measures.

VMS unit, sometimes known as a "mobile transmitting unit," means a transceiver or communications device, including all hardware and software, that is carried and operated on a vessel as part of a VMS.

WCPFC Area Endorsement means the authorization issued by NMFS under § 300.212, supplementary to a valid high seas fishing permit and expressed as an endorsement to such permit, for a fishing vessel used for commercial fishing for highly migratory species on the high seas in the Convention Area.

WCPFC Convention means the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force, for the United States) that was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High-Level Conference on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

WCPFC inspection vessel means any vessel that is:

(1) authorized by a member of the Commission to be used to undertake boarding and inspection fishing vessels on the high seas pursuant to, and in accordance with, Article 26 of the WCPFC Convention and procedures established by the Commission pursuant thereto;

(2) included in the Commission's register of authorized inspection vessels and authorities or inspectors, established by the Commission in procedures pursuant to Article 26 of the WCPFC Convention; and

(3) flying the WCPFC inspection flag established by the Commission.

WCPFC inspector means a person that is authorized by a member of the Commission to undertake boarding and inspection of fishing vessels on the high seas pursuant to, and in accordance with, the boarding and inspection procedures adopted by the Commission under Article 26 of the WCPFC Convention, and referred to therein as a "duly authorized inspector" or "authorized inspector."

WCPFC observer means a person authorized by the Commission in accordance with any procedures established by the Commission to undertake vessel observer duties as part of the Commission's Regional Observer Programme, including an observer deployed as part of a NMFS-administered observer program or as part of another national or sub-regional observer program, provided that such program is authorized by the Commission to be part of the

Commission's Regional Observer Programme.

WCPFC transshipment monitor means, with respect to transshipments that take place on the high seas, a person authorized by the Commission to conduct transshipment monitoring on the high seas, and with respect to transshipments that take place in areas under the jurisdiction of a member of the Commission other than the United States, a person authorized by such member of the Commission to conduct transshipment monitoring.

§ 300.212 Vessel permit endorsements.

(a) Any fishing vessel of the United States used for commercial fishing for HMS on the high seas in the Convention Area must have on board a valid high seas fishing permit, or a copy thereof, that has a valid WCPFC Area Endorsement, or a copy thereof.

(b) *Eligibility.* Only a fishing vessel that has a valid high seas fishing permit is eligible to receive a WCPFC Area Endorsement.

(c) *Application.* (1) A WCPFC Area Endorsement may be applied for at the same time the underlying high seas permit is applied for, or at any time thereafter.

(2) The owner or operator of a high seas fishing vessel may apply for a WCPFC Area Endorsement by completing an application form, available from the Pacific Islands Regional Administrator, and submitting the complete and accurate application, signed by the applicant, to the Pacific Islands Regional Administrator, along with the required fees.

(3) The application must be accompanied by a bow-to-stern side-view photograph of the vessel in its current form and appearance. The photograph must meet the specifications prescribed on the application form and clearly show that the vessel is marked in accordance with the vessel identification requirements of § 300.217. A vessel photograph submitted as part of an application for a high seas fishing permit will be deemed to satisfy the requirement under this section, provided that it clearly shows that the vessel is marked in accordance with the vessel identification requirements of § 300.217 and it meets the specifications prescribed on the WCPFC Area Endorsement application form.

(d) *Fees.* NMFS will charge a fee to recover the administrative expenses of issuance of a WCPFC Area Endorsement. The amount of the fee will be determined in accordance with the procedures of the NOAA Finance Handbook, available from the Pacific Islands Regional Administrator, for

determining administrative costs of each special product or service. The fee is specified in the application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the WCPFC Area Endorsement. Payment by a commercial instrument later determined to be insufficiently funded is grounds for invalidating the WCPFC Area Endorsement.

(e) *Issuance.* (1) The Pacific Islands Regional Administrator will issue a WCPFC Area Endorsement within 30 days of receipt of a complete application that meets the requirements of this section and upon payment of the appropriate fee.

(2) If an incomplete or improperly completed application is submitted, the Pacific Islands Regional Administrator will notify the applicant of such deficiency within 30 days of the date of receipt of the application. If the applicant fails to correct the deficiency and send a complete and accurate application to the Pacific Islands Regional Administrator within 30 days of the date of the notification of deficiency, the application will be considered withdrawn and no further action will be taken to process the application. Following withdrawal, the applicant may at any time submit a new application for consideration.

(f) *Validity.* A WCPFC Area Endorsement issued under this subpart expires upon the expiration of the underlying high seas fishing permit, and shall be void whenever the underlying high seas fishing permit is void. Renewal of a WCPFC Area Endorsement prior to its expiration is the responsibility of the WCPFC Area Endorsement holder.

(g) *Change in application information.* Any change in the required information provided in an approved or pending application for a WCPFC Area Endorsement must be reported by the vessel owner or operator to the Pacific Islands Regional Administrator in writing within 15 days of such change.

(h) *Transfer.* A WCPFC Area Endorsement issued under this subpart is valid only for the vessel, owner, and high seas fishing permit to which it is issued and is not transferable or assignable to another high seas fishing permit or to another vessel.

(i) *Display.* A valid WCPFC Area Endorsement, or a photocopy or facsimile copy thereof, issued under this subpart must be on board the vessel and available for inspection by any authorized officer while the vessel is at sea and must be available for inspection by any WCPFC inspector while the

vessel is on the high seas in the Convention Area.

§ 300.213 Vessel information.

(a) The owner or operator of any fishing vessel of the United States that is used for fishing for HMS in the Convention Area in waters under the jurisdiction of any nation other than the United States must, prior to the commencement of such fishing, submit to the Pacific Islands Regional Administrator information about the vessel and its ownership and operation, and the authorized fishing activities, including copies of any permits, licenses, or authorizations issued for such activities, as specified on forms available from the Pacific Islands Regional Administrator. The owner or operator of such a fishing vessel must also submit to the Pacific Islands Regional Administrator a bow-to-stern side-view photograph of the vessel in its current form and appearance, and the photograph must meet the specifications prescribed on the application form. If any of the submitted information changes, the vessel owner or operator must report the updated information to the Pacific Islands Regional Administrator in writing within 15 days of the change.

(b) If any of the information or the vessel photograph required under paragraph (a) of this section has been submitted for the subject vessel on an application for a high seas fishing permit or an application for a WCPFC Area Endorsement, then the requirements of paragraph (a) of this section will be deemed satisfied. However, in order to satisfy this requirement, the high seas fishing permit or WCPFC Area Endorsement must be valid, the information provided must be true, accurate and complete, and in the case of a vessel photograph, it must meet the specifications prescribed on the form used for the purpose of submitting the photograph under this section.

§ 300.214 Compliance with laws of other nations.

(a) The owner and operator of a fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required:

(1) May not use the vessel for fishing, retaining fish on board, or landing fish in areas under the jurisdiction of a nation other than the United States unless any license, permit, or other authorization that may be required by such other nation for such activity has been issued with respect to the vessel.

(2) Shall, when the vessel is in the Convention Area in areas under the jurisdiction of a member of the Commission other than the United States, operate the vessel in compliance with, and ensure its crew complies with, the applicable national laws of such member.

(b) The owner and operator of a fishing vessel of the United States shall ensure that:

(1) The vessel is not used for fishing for HMS, retaining HMS on board, or landing HMS in the Convention Area in areas under the jurisdiction of a nation other than the United States unless any license, permit, or other authorization that may be required by such other nation for such activity has been issued with respect to the vessel.

(2) If the vessel is used for commercial fishing for HMS, including transshipment of HMS, in the Convention Area in areas under the jurisdiction of a member of the Commission other than the United States, the vessel is operated in compliance with, and the vessel crew complies with, the applicable laws of such member, including any laws related to carrying vessel observers or the operation of VMS units.

(c) For the purpose of this section, the meaning of transshipment does not include transfers that exclusively involve fish that have been previously landed and processed.

§ 300.215 Observers.

(a) *Applicability.* This section applies to any fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required.

(b) *Notifications.* [Reserved]

(c) *Accommodating observers.* All fishing vessels subject to this section must carry a WCPFC observer when directed to do so by NMFS. The operator and each member of the crew of the fishing vessel shall act in accordance with this paragraph with respect to any WCPFC observer.

(1) The operator and crew shall allow and assist WCPFC observers to:

(i) Embark at a place and time determined by NMFS or otherwise agreed to by NMFS and the vessel operator;

(ii) Have access to and use of all facilities and equipment on board as necessary to conduct observer duties, including, but not limited to: full access to the bridge, the fish on board, and areas which may be used to hold, process, weigh and store fish; full access to the vessel's records, including its logs and documentation, for the purpose of inspection and copying; access to, and

use of, navigational equipment, charts and radios; and access to other information relating to fishing;

(iii) Remove samples;

(iv) Disembark at a place and time determined by NMFS or otherwise agreed to by NMFS and the vessel operator; and

(v) Carry out all duties safely.

(2) The operator shall provide the WCPFC observer, while on board the vessel, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel, at no expense to the WCPFC observer.

(3) The operator and crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass or interfere with WCPFC observers in the performance of their duties, or attempt to do any of the same. (d) Related observer requirements. Observers deployed by NMFS pursuant to regulations issued under other statutory authorities on vessels used for commercial fishing for HMS in the Convention Area will be deemed by NMFS to have been deployed pursuant to this section.

§ 300.216 Transshipment.

(a) *Transshipment monitoring.* [Reserved]

(b) *Transshipment restrictions.* Fish may not be transshipped from a purse seine vessel at sea in the Convention Area, and a fishing vessel may not be used to receive a transshipment of fish from a purse seine vessel at sea in the Convention Area.

§ 300.217 Vessel identification.

(a) *General.* (1) A fishing vessel must be marked in accordance with the requirements of this section in order for a WCPFC Area Endorsement to be issued for the fishing vessel.

(2) Any fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required shall be marked for identification purposes in accordance with this section, and all parts of such markings shall be clear, distinct, uncovered, and unobstructed.

(3) Any boat, skiff, or other watercraft carried on board the fishing vessel shall be marked with the same identification markings as required under this section for the fishing vessel and shall be marked in accordance with this section.

(b) *Marking.* (1) Vessels shall be marked in accordance with the identification requirements of § 300.14(b)(2), and if an IRCS has not been assigned to the vessel, then the Federal, State, or other documentation

number used in lieu of the IRCS must be preceded by the characters "USA" and a hyphen (that is, "USA-").

(2) With the exception of the vessel's name and hailing port, the marking required in this section shall be the only vessel identification mark consisting of letters and numbers to be displayed on the hull and superstructure.

§ 300.218 Reporting and recordkeeping requirements.

(a) *Fishing reports*—(1) *General*. The owner or operator of any fishing vessel used for commercial fishing for HMS in the Pacific Ocean must maintain and report to NMFS catch and effort and other operational information for all such fishing activities. The reports must include at a minimum: identification information for the vessel; description of fishing gear used; dates, times and locations of fishing; and species and amounts of fish retained and discarded.

(2) *Reporting options*. Vessel owners and operators shall be deemed to meet the recordkeeping and reporting requirements of paragraph (a)(1) of this section by satisfying all applicable catch and effort reporting requirements as listed below:

(i) *Western Pacific pelagic fisheries*. Fishing activities subject to the reporting requirements of § 665.14(a) of this title must be maintained and reported in the manner specified in that section.

(ii) *West Coast HMS fisheries*. Fishing activities subject to the reporting requirements of § 660.708(a) of this title must be maintained and reported in the manner specified in that section.

(iii) *Pacific tuna fisheries*. Fishing activities subject to the reporting requirements of § 300.22 must be maintained and reported in the manner specified in that section.

(iv) *South Pacific tuna fisheries*. Fishing activities subject to the reporting requirements of § 300.34(c)(1) must be maintained and reported in the manner specified in that section.

(v) *High seas fisheries*. Fishing activities subject to the reporting requirements of § 300.17(a) must be maintained and reported in the manner specified in § 300.17(a) and (b).

(vi) *Canada albacore fisheries*. Fishing activities subject to the reporting requirements of § 300.174 must be maintained and reported in the manner specified in that section.

(vii) *State-regulated fisheries*. Catch and effort information for fishing activities for which reporting of effort, catch, and/or landings is required under State law must be maintained and reported in the manner specified under such State law.

(viii) *Other fisheries*. All other fishing activities subject to the requirement of paragraph (a)(1) of this section must be recorded on paper or electronic forms specified or provided by the Pacific Islands Regional Administrator. Such forms will specify the information required, which may include: identification information for the vessel; description of fishing gear used; dates, times and locations of fishing; and species and amounts of fish retained and discarded. All information specified by the Pacific Islands Regional Administrator on such forms must be recorded on paper or electronically within 24 hours of the completion of each fishing day. The information recorded must, for each fishing day, include a dated signature of the vessel operator or other type of authentication as specified by the Pacific Islands Regional Administrator. The vessel operator must, unless otherwise specified by the Pacific Islands Regional Administrator, submit the information for each fishing day to the Pacific Islands Regional Administrator within 72 hours of the first landing or port call after the fishing day, and must submit the information in the manner specified by the Pacific Islands Regional Administrator.

(3) *Exceptions*. (i) Catch and effort information for fishing activities that take place in waters under State jurisdiction must be maintained and reported only in cases where the reporting of such activity is required under State law or under Federal regulations at §§ 300.22 and 300.34, and §§ 660.708 and 665.14 of this title.

(ii) Catch and effort information for fishing activities that take place in waters under Federal jurisdiction around American Samoa, Guam and the Northern Mariana Islands need not be reported under this section unless reporting of such activity is required under regulations in chapter VI of this title.

(b) *Transshipment reports*. [Reserved]

§ 300.219 Vessel monitoring system.

(a) *SAC contact information and business hours*. The contact information for the SAC for the purpose of this section is: 1601 Kapiolani Blvd., Suite 950, Honolulu, HI 96814; telephone: (808) 203-2500; facsimile: (808) 203-2599; email: pidvms@noaa.gov. The business hours of the SAC for the purpose of this section are: Monday through Friday, except Federal holidays, 8 a.m. to 4:30 p.m.

(b) *Applicability*. This section applies to any fishing vessel of the United States with a WCPFC Area Endorsement or for

which a WCPFC Area Endorsement is required.

(c) *Provision of vessel position information*—(1) *VMS unit installation*. The vessel owner and operator shall obtain and have installed on the fishing vessel, in accordance with instructions provided by NMFS and the VMS unit manufacturer, a VMS unit that is type-approved by NMFS for fisheries governed under the Act. The vessel owner and operator shall authorize the Commission and NMFS to receive and relay transmissions from the VMS unit. The vessel owner and operator shall arrange for a NMFS-approved mobile communications service provider to receive and relay transmissions from the VMS unit to NMFS. NMFS makes available lists of type-approved VMS units and approved mobile communications service providers.

(2) *VMS unit activation*. If the VMS unit has not yet been activated as described in this paragraph, or if the VMS unit has been newly installed or reinstalled, or if the mobile communications service provider has changed since the previous activation, or if directed by NMFS, the vessel owner and operator shall, prior to the vessel leaving port:

(i) Turn on the VMS unit to make it operational;

(ii) Submit a written activation report, via mail, facsimile or email, to the SAC that includes: the vessel's name; the vessel's official number; the VMS unit manufacturer and identification number; and telephone, facsimile or email contact information for the vessel owner or operator; and

(iii) Receive verbal or written confirmation from NMFS that proper transmissions are being received from the VMS unit.

(3) *VMS unit operation*. The vessel owner and operator shall continuously operate the VMS unit at all times, except that the VMS unit may be shut down while the vessel is at port or otherwise not at sea, provided that the owner and operator:

(i) Prior to shutting down the VMS unit, report to the SAC, via facsimile or email, the following information: the intent to shut down the VMS unit, the vessel's name; the vessel's official number; and telephone, facsimile or email contact information for the vessel owner or operator; and

(ii) When turning the VMS unit back on, report to the SAC, via mail, facsimile or email, the following information: that the VMS unit has been turned on, the vessel's name; the vessel's official number; and telephone, facsimile or email contact information for the vessel owner or operator; and

(iii) Prior to leaving port, receive verbal or written confirmation from NMFS that proper transmissions are being received from the VMS unit.

(4) *Failure of VMS unit.* If the vessel owner or operator becomes aware that the VMS unit has become inoperable or that transmission of automatic position reports from the VMS unit has been interrupted, or if notified by NMFS or the USCG that automatic position reports are not being received from the VMS unit or that an inspection of the VMS unit has revealed a problem with the performance of the VMS unit, the vessel owner and operator shall comply with the following requirements:

(i) If the vessel is at port: The vessel owner or operator shall repair or replace the VMS unit and ensure it is operable before the vessel leaves port.

(ii) If the vessel is at sea: The vessel owner, operator, or designee shall contact the SAC by telephone, facsimile, or email at the earliest opportunity during the SAC's business hours and identify the caller and vessel. The vessel operator shall follow the instructions provided by the SAC, which could include, but are not limited to: ceasing fishing, stowing fishing gear, returning to port, and/or submitting periodic position reports at specified intervals by other means; and, repair or replace the VMS unit and ensure it is operable before starting the next trip.

(5) *Related VMS requirements.*

Installing, carrying and operating a VMS unit in compliance with the requirements in part 300 of this title, part 660 of this title, or part 665 of this title relating to the installation, carrying, and operation of VMS units shall be deemed to satisfy the requirements of paragraph (c) of this section, provided that the VMS unit is operated continuously and at all times while the vessel is at sea, the VMS unit is type-approved by NMFS for fisheries governed under the Act, the owner and operator have authorized the Commission and NMFS to receive and relay transmissions from the VMS unit, and the specific requirements of paragraph (c)(4) of this section are complied with. If the VMS unit is owned by NMFS, the requirement under paragraph (c)(4) of this section to repair or replace the VMS unit will be the responsibility of NMFS, but the vessel owner and operator shall be responsible for ensuring that the VMS unit is operable before leaving port or starting the next trip.

(d) *Costs.* The vessel owner and operator shall be responsible for all costs associated with the purchase, installation and maintenance of the VMS unit, and for all charges levied by

the mobile communications service provider as necessary to ensure the transmission of automatic position reports to NMFS as required in paragraph (c) of this section. However, if the VMS unit is being carried and operated in compliance with the requirements in part 300 of this title, part 660 of this title, or part 665 of this title relating to the installation, carrying, and operation of VMS units, the vessel owner and operator shall not be responsible for costs that are the responsibility of NMFS under those regulations.

(e) *Tampering.* The vessel owner and operator shall ensure that the VMS unit is not tampered with, disabled, destroyed, damaged or operated improperly, and that its operation is not impeded or interfered with.

(f) *Inspection.* The vessel owner and operator shall make the VMS unit, including its antenna, connectors and antenna cable, available for inspection by authorized officers, by employees of the Commission, by persons appointed by the Executive Director of the Commission for this purpose, and, when the vessel is on the high seas in the Convention Area, by WCPFC inspectors.

(g) *Access to data.* The vessel owner and operator shall make the vessel's position data obtained from the VMS unit or other means immediately and always available for inspection by NOAA personnel, USCG personnel, and authorized officers, and shall make the vessel's position data for positions on the high seas in the Convention Area immediately and always available to WCPFC inspectors and the Commission.

(h) *Communication devices.* (1) To facilitate communication with management and enforcement authorities regarding the functioning of the VMS unit and other purposes, the vessel operator shall, while the vessel is at sea, carry on board and continuously monitor a two-way communication device that is capable of real-time communication with the SAC. The VMS unit used to fulfill the requirements of paragraph (c) of this section may not be used to satisfy this requirement. If the device is anything other than a radio, the contact number for the device must be provided to the Pacific Islands Regional Administrator on the application form for the WCPFC Area Endorsement in accordance with the requirements of § 300.212.

(2) For the purpose of submitting the position reports that might be required in cases of VMS unit failure under paragraph (c)(4)(ii) of this section, the vessel operator shall, while the vessel is at sea, carry on board a communication device capable of transmitting, while

the vessel is on the high seas in the Convention Area, communications by telephone, facsimile, email, or radio to the Commission, in Pohnpei, Micronesia. The VMS unit used to fulfill the requirements of paragraph (c) of this section may not be used to satisfy this requirement. The same communication device may be able to satisfy the requirements of both this paragraph and paragraph (h)(1) of this section.

§ 300.220 Confidentiality of information.

(a) *Types of information covered.* NOAA is authorized under the Act and other statutes to collect and maintain information. This section applies to confidential information collected under authority of the Act.

(b) Collection and maintenance of information—(1) *General.* (i) Any information required to be submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission under the Act shall be provided to the Assistant Administrator.

(ii) Any observer information collected under the Act shall be provided to the Assistant Administrator.

(iii) Appropriate safeguards as specified by NOAA Administrative Order (NAO) 216-100 or other NOAA/NMFS internal procedures, apply to the collection and maintenance of any information collected pursuant to paragraphs (b)(1) or (b)(2) of this section, whether separated from identifying particulars or not, so as to ensure their confidentiality. Information submitted to the Secretary in compliance with this subpart shall not be disclosed except as authorized herein or by other law or regulation.

(2) Collection agreements with States or Marine Fisheries Commissions—(i) The Assistant Administrator may enter into an agreement with a State or a Marine Fisheries Commission authorizing the State or Marine Fisheries Commission to collect information on behalf of the Secretary.

(ii) To enter into a cooperative collection agreement with a State or a Marine Fisheries Commission, NMFS must ensure that:

(A) The State has authority to protect the information from disclosure in a manner at least as protective as these regulations.

(B) The Marine Fisheries Commission has enacted policies and procedures to protect the information from public disclosure.

(3) Collection services by observer employer / observer provider. The Assistant Administrator shall make the following determinations before issuing a permit or letting a contract or grant to

an organization that provides observer services:

(i) That the observer employer / observer provider has enacted policies and procedures to protect the information from public disclosure;

(ii) That the observer employer / observer provider has entered into an agreement with the Assistant Administrator that prohibits public disclosure and specifies penalties for such disclosure; and

(iii) That the observer employer / observer provider requires each observer to sign an agreement with NOAA/NMFS that prohibits public disclosure of observer information and specifies penalties for such disclosure.

(c) *Access to information*—(1) *General.* This section establishes procedures intended to manage, preserve, and protect the confidentiality of information submitted in compliance with the Act and its implementing regulations. This section applies to those persons and organizations deemed eligible to access confidential information subject to the terms and conditions described in this section and the Act. All other persons requesting access to confidential information should follow the procedures set forth in the Freedom of Information Act, 5 U.S.C. 552, 15 CFR parts 15 and 903, NAO 205-14, and Department of Commerce Administrative Orders 205-12 and 205-14, as applicable. Persons eligible to access confidential information under this section shall submit to NMFS a written request with the following information:

(i) The specific types of information requested;

(ii) The relevance of the information to requirements of the Act;

(iii) The duration of time that access will be required: continuous, infrequent, or one-time; and

(iv) An explanation of why the availability of information in aggregate or summary form from other sources would not satisfy the requested needs.

(2) *Federal employees.* Confidential information will only be accessible to the following:

(i) Federal employees who are responsible for administering, implementing, or enforcing the Act. Such persons are exempt from the provisions of paragraph (c)(1) of this section.

(ii) NMFS employees responsible for the collection, processing, and storage of the information or performing research that requires access to confidential information. Such persons are exempt from the provisions of paragraph (c)(1) of this section.

(iii) Other NOAA employees on a demonstrable need-to-know basis.

(iv) Persons that need access to confidential information to perform functions authorized under a Federal contract, cooperative agreement, or grant awarded by NOAA/NMFS.

(3) *Commission.* (i) Confidential information will be subject to disclosure to the Commission, but only if:

(A) The information is required to be submitted to the Commission under the requirements of the WCPF Convention or the decisions of the Commission;

(B) The provision of such information is in accord with the requirements of the Act, the WCPF Convention, and the decisions of the Commission, including any procedures, policies, or practices adopted by the Commission relating to the receipt, maintenance, protection or dissemination of information by the Commission; and

(C) The provision of such information is in accord with any agreement between the United States and the Commission that includes provisions to prevent public disclosure of the identity or business of any person.

(ii) The provisions of paragraph (c)(1) of this section do not apply to the release of confidential information to the Commission.

(4) *State employees.* Confidential information may be made accessible to a State employee only by written request and only upon the determination by NMFS that at least one of the following conditions is met:

(i) The employee has a need for confidential information to further the Department of Commerce's mission, and the State has entered into a written agreement between the Assistant Administrator and the head of the State's agency that manages marine and/or anadromous fisheries. The agreement shall contain a finding by the Assistant Administrator that the State has confidentiality protection authority comparable to the Act and that the State will exercise this authority to prohibit public disclosure of the identity or business of any person.

(ii) The employee enforces the Act or fishery management plans prepared under the authority of the Magnuson-Stevens Conservation and Management Act, and the State for which the employee works has entered into a fishery enforcement agreement with the Secretary and the agreement is in effect.

(5) *Marine Fisheries Commission employees.* Confidential information may be made accessible to Marine Fisheries Commission employees only upon written request of the Marine Fisheries Commission and only if the request demonstrates a need for

confidential information to further the Department of Commerce's mission, and the executive director of the Marine Fisheries Commission has entered into a written agreement with the Assistant Administrator. The agreement shall contain a finding by the Assistant Administrator that the Marine Fisheries Commission has confidentiality protection policies and procedures to protect from public disclosure information that would reveal the identity or business of any person.

(6) *Homeland and national security activities.* Confidential information may be made accessible to Federal employees for purposes of promoting homeland security or national security at the request of another Federal agency only if:

(i) Providing the information promotes homeland security or national security purposes including the USCG's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)); and

(ii) The requesting agency has entered into a written agreement with the Assistant Administrator. The agreement shall contain a finding by the Assistant Administrator that the requesting agency has confidentiality policies and procedures to protect the information from public disclosure.

(7) *Observer and observer employer / observer provider.* Confidential information used for purposes other than those contained in this subpart or in part 600 of this title may only be used by observers and observer employers / observer providers in order:

(i) To adjudicate observer certifications;

(ii) To allow the sharing of observer information among the observers and between observers and observer employers / observer providers as necessary to train and prepare observers for deployments on specific vessels; or

(iii) To validate the accuracy of the observer information collected.

(8) Persons having access to confidential information may be subject to criminal and civil penalties for unauthorized use or disclosure of confidential information. See 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100.

(d) *Control system.* (1) The Assistant Administrator maintains a control system to protect the identity or business of any person who submits information in compliance with any requirement or regulation under the Act. The control system:

(i) Identifies those persons who have access to the information;

(ii) Contains procedures to limit access to confidential information to authorized users; and

(iii) Provides handling and physical storage protocols for safeguarding of the information.

(2) This system requires that all persons who have authorized access to the information be informed of the confidentiality of the information. These persons, with the exception of employees and contractors of the Commission, are required to sign a statement that they:

(i) Have been informed that the information is confidential; and

(ii) Have reviewed and are familiar with the procedures to protect confidential information.

(e) *Release of information.* (1) The Assistant Administrator will not disclose to the public any confidential information, except:

(i) When the Secretary has obtained from the person who submitted the information an authorization to release the information to persons for reasons not otherwise provided for in this subpart. In situations where a person provides information through a second party, both parties are considered joint submitters of information and either party may request a release. The authorization to release such information will require:

(A) A written statement from the person(s) who submitted the information authorizing the release of the submitted information; and

(B) A finding by the Secretary that such release does not violate other requirements of the Act or other applicable laws.

(ii) Observer information as authorized by a fishery management plan (prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act) or regulations under the authority of the North Pacific Council to allow disclosure of observer information to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification.

(iii) When such information is required to be submitted for any determination under a limited access program.

(iv) When required by a court order.

(2) All requests from the public for confidential information will be processed in accordance with the requirements of 5 U.S.C. 552a, 15 CFR parts 4 and 903, NAO 205-14, and Department of Commerce Administrative Orders DAO 205-12 and DAO 205-14. Nothing in this section is intended to confer any right, claim, or

entitlement to obtain access to confidential information not already established by law.

(3) NMFS does not release or allow access to confidential information in its possession to members of advisory groups of the Regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act, except as provided by law.

§ 300.221 Facilitation of enforcement and inspection.

In addition to the facilitation of enforcement provisions of § 300.5, the following requirements apply to this subpart.

(a) A fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required, including the vessel's operator and each member of the vessel's crew shall, when in the Convention Area, be subject to the following requirements:

(1) The Federal Certificate of Documentation or State or other documentation for the vessel, or a copy thereof, shall be carried on board the vessel. Any license, permit or other authorization to use the vessel to fish, retain fish, transship fish, or land fish issued by a nation or political entity other than the United States, or a copy thereof, shall be carried on board the vessel. These documents shall be made available for inspection by any authorized officer. If the vessel is on the high seas, the above-mentioned licenses, permits, and authorizations shall also be made available for inspection by any WCPFC inspector. If the vessel is in an area under the jurisdiction of a member of the Commission other than the United States, they shall be made available for inspection by any authorized enforcement official of that member.

(2) For the purpose of facilitating communication with the fisheries management, surveillance and enforcement authorities of the members of the Commission, the operator shall ensure the continuous monitoring of the international safety and calling radio frequency 156.8 MHz (Channel 16, VHF-FM) and, if the vessel is equipped to do so, the international distress and calling radio frequency 2.182 MHz (HF).

(3) The operator shall ensure that an up-to-date copy of the International Code of Signals (INTERCO) is on board and accessible at all times.

(4) When engaged in transshipment on the high seas or in an area under the jurisdiction of a member of the Commission other than the United States, the operator and crew shall:

(i) Provide any WCPFC transshipment monitor with full access to, and use of, facilities and equipment which such authorized person may determine is necessary to carry out his or her duties to monitor transshipment activities, including full access to the bridge, fish on board, and all areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying;

(ii) Allow and assist any WCPFC transshipment monitor to collect and remove samples and gather any other information required to fully monitor transshipment activities.

(iii) Not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass, interfere with, unduly obstruct or delay any WCPFC transshipment monitor in the performance of such person's duties, or attempt to do any of the same.

(b) The operator and crew of a fishing vessel of the United States, when on the high seas in the Convention Area, shall be subject to the following requirements:

(1) The operator and crew shall immediately comply with instructions given by an officer on board a WCPFC inspection vessel to move the vessel to a safe location and/or to stop the vessel, provided that the officer has, prior to the issuance of such instructions:

(i) Provided information identifying his or her vessel as a WCPFC inspection vessel, including its name, registration number, IRCS and contact frequency; and

(ii) Communicated to the vessel operator his or her intention to board and inspect the vessel under the authority of the Commission and pursuant to the boarding and inspection procedures adopted by the Commission.

(2) The operator and crew shall accept and facilitate prompt and safe boarding by any WCPFC inspector, provided that an officer on board the WCPFC inspection vessel has, prior to such boarding:

(i) Provided information identifying his or her vessel as a WCPFC inspection vessel, including its name, registration number, IRCS and contact frequency; and

(ii) Communicated to the vessel operator an intention to board and inspect the vessel under the authority of the Commission and pursuant to the boarding and inspection procedures adopted by the Commission.

(3) Provided that the WCPFC inspector has presented to the vessel operator his or her identity card identifying him or her as an inspector authorized to carry out boarding and

inspection procedures under the auspices of the Commission, and a copy of the text of the relevant conservation and management measures in force pursuant to the WCPF Convention in the relevant area of the high seas, the operator and crew shall:

(i) Cooperate with and assist any WCPFC inspector in the inspection of the vessel, including its authorizations to fish, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the conservation and management measures in force pursuant to the WCPF Convention;

(ii) Allow any WCPFC inspector to communicate with the crew of the WCPFC inspection vessel, the authorities of the WCPFC inspection vessel and the authorities of the vessel being inspected;

(iii) Provide any WCPFC inspector with reasonable facilities, including, where appropriate, food and accommodation; and

(iv) Facilitate safe disembarkation by any WCPFC inspector.

(4) If the operator or crew refuses to allow a WCPFC inspector to board and inspect the vessel in the manner described in this paragraph, they shall offer to the WCPFC inspector an explanation of the reason for such refusal.

(5) The operator and crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass, interfere with, unduly obstruct or delay any WCPFC inspector in the performance of such person's duties, or attempt to do any of the same.

(c) When a fishing vessel of the United States that is used for commercial fishing for HMS is in the Convention Area and is either on the high seas without a valid WCPFC Area Endorsement or is in an area under the jurisdiction of a nation other than the United States without an authorization by that nation to fish in that area, all the fishing gear and fishing equipment on the fishing vessel shall be stowed in a manner so as not to be readily available for fishing, specifically:

(1) If the fishing vessel is used for purse seining and equipped with purse seine gear, the boom must be lowered as far as possible so that the vessel cannot be used for fishing but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and the launches must be secured.

(2) If the fishing vessel is used for longlining and equipped with longline gear, the branch or dropper lines and

floats used to buoy the mainline must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use.

(3) If the fishing vessel is used for trolling and equipped with troll gear, no lines or hooks may be placed in the water; if outriggers are present on the vessel, they must be secured in a vertical position; if any power-operated haulers are located on deck they must be covered in such a manner that they are not readily available for use.

(4) If the fishing vessel is used for pole-and-line fishing and equipped with pole-and-line gear, any poles rigged with lines and hooks must be stowed in such a manner that they are not readily available for use.

(5) For any other type of fishing vessel, all the fishing gear and equipment on the vessel must be stowed in a manner so as not to be readily available for use.

(d) For the purpose of this section, the meaning of transshipment does not include transfers that exclusively involve fish that have been previously landed and processed.

§ 300.222 Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person to:

(a) Fail to obtain and have on board a fishing vessel a valid WCPFC Area Endorsement as required in § 300.212.

(b) Fail to report a change in the information required in an application for a WCPFC Area Endorsement as required in § 300.212(g).

(c) Fail to provide information on vessels and fishing authorizations or fail to report changes in such information as required in § 300.213.

(d) Fish for, retain on board, or land fish, including HMS, in areas under the jurisdiction of a nation other than the United States without authorization by such nation to do so, as provided in § 300.214(a)(1) and (b)(1).

(e) Operate a fishing vessel in violation of, or fail to ensure the vessel crew complies with, the applicable national laws of a member of the Commission other than the United States, including any laws related to carrying vessel observers or the operation of VMS units, as provided in § 300.214(a)(2) and (b)(2).

(f) Fail to carry, allow on board, or assist a WCPFC observer as required in § 300.215.

(g) Assault, obstruct, resist, delay, refuse boarding to, intimidate, harass, or interfere with a WCPFC observer, or

attempt to do any of the same, or fail to provide a WCPFC observer with food, accommodation or medical facilities, as required in § 300.215.

(h) Offload, receive, or load fish from a purse seine vessel at sea in the Convention Area, in contravention of § 300.216.

(i) Fail to mark a fishing vessel or a boat, skiff, or other watercraft on board the fishing vessel as required in § 300.217, or remove, obscure, or obstruct such markings, or attempt to do so.

(j) Fail to maintain and report catch and effort information or transshipment information as required in § 300.218.

(k) Fail to install, activate, or operate a VMS unit as required in § 300.219(c).

(l) In the event of VMS unit failure or interruption, fail to repair or replace a VMS unit, fail to notify the SAC and follow the instructions provided, or otherwise fail to act as provided in § 300.219(c)(4).

(m) Disable, destroy, damage or operate improperly a VMS unit installed under § 300.219, or attempt to do any of the same, or fail to ensure that its operation is not impeded or interfered with, as provided in § 300.219(e).

(n) Fail to make a VMS unit installed under § 300.219 or the position data obtained from it available for inspection, as provided in § 300.219(f) and (g).

(o) Fail to carry on board and monitor communication devices as required in § 300.219(h).

(p) Fail to carry on board and make available the required vessel documentation and authorizations as required in § 300.221(a)(1).

(q) Fail to continuously monitor the specified radio frequencies as required in § 300.221(a)(2).

(r) Fail to carry on board, and keep accessible, an up-to-date copy of the International Code of Signals as required in § 300.221(a)(3).

(s) Fail to provide access to, or fail to allow and assist, a WCPFC transshipment monitor as required in § 300.221(a)(4).

(t) Fail to comply with the instructions of, or fail to accept and facilitate prompt and safe boarding by, a WCPFC inspector, or fail to cooperate and assist a WCPFC inspector in the inspection of a fishing vessel, as provided in § 300.221(b).

(u) Fail to stow fishing gear or fishing equipment as required in § 300.221(c).

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Notices

Federal Register

Vol. 74, No. 98

Friday, May 22, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Pamela Beverly OIRA Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

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

Cooperative State Research, Education, and Extension Service

Title: Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds.
OMB Control Number: 0524-0036.

Summary of Collection: Section 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) requires that a plan of work must be submitted by each institution and approved by the Cooperative State Research, Education, and Extension Service (CSREES) before formula funds may be provided to the 1862 and 1890 land-grant institutions. The plan of work must address critical agricultural issues in the State and describe the programs and project targeted to address these issues using the CSREES formula funds. The plan of work also must describe the institution's multistate activities as well as their integrated research and extension activities.

CSREES is requesting to continue to collect an update to the 5-Year Plan of Work which began with the Fiscal Year 2007, and as a result no longer needs to collect the initial 5-Year Plan. Also, as required by the Food Conservation and Energy Act of 2008 (FCEA) (Pub. L. 110-246, Sec. 7505), CSREES is working with the university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements.

Need and Use of the Information: Institutions are required to annually report to CSREES the following: (1) The actions taken to seek stakeholder input to encourage their participation; (2) a brief statement of the process used by the recipient institution to identify individuals or groups who are stakeholders and to collect input from them; and (3) a statement of how collected input was considered. CSREES uses the information to provide feedback to the institutions on their Plans of Work and Annual Reports of Accomplishments and Results in order for institutions to improve the conduct and the delivery of their programs. Failure to comply with the requirements may result in the withholding of a recipient institution's formula funds

and redistribution of its share of formula funds to other eligible institutions.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 48,600.

Ruth Brown,

Departmental Information Collection
Clearance Officer.

[FR Doc. E9-12015 Filed 5-21-09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information

displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR 1944-I, "Self-Help Technical Assistance Grants".

OMB Control Number: 0575-0043.

Summary of Collection: This regulation sets forth the policies and procedures and delegates the authority for providing technical assistance funds to eligible applicants to finance programs of technical and supervisory assistance for the Mutual and Self-Help Housing (MSH) program, as authorized under section 523 of the Housing Act of 1949. The MSH program affords low-income families the opportunity for home ownership by providing funds to non-profit organizations for supervisory and technical assistance to the homebuilding families. Rural Housing Service (RHS) will collect information from non-profit organizations that want to develop a Self-Help program in their area to increase the availability of affordable housing. The information is collected at the local, district and state levels. The information requested by RHS includes financial and organizational information about the non-profit organization.

Need and Use of the Information: RHS needs this information to determine if the organization is capable of successfully carrying out the requirements of the Self-Help program. The information is collected on an as requested or needed basis. RHS has reviewed the program's need for the collection of information versus the burden placed on the public.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 160.

Frequency of Responses: Recordkeeping; Reporting: Monthly, annually.

Total Burden Hours: 4,372.

Charlene Parkér,

Departmental Information Collection Clearance Officer.

[FR Doc. E9-12016 Filed 5-21-09; 8:45 am]

BILLING CODE 3410-XT-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 19, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Veterinary Accreditation Program.

OMB Control Number: 0579-0032.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Animal and Plant Health Inspection

Service (APHIS) of the U.S. Department of Agriculture is the agency charged with carrying out this disease prevention mission. To help accomplish this mission, APHIS' Veterinary Services administers the National Veterinary Accreditation Program. This program certifies private veterinary practitioners to work cooperatively with Federal veterinarians, as well as with State animal health officials, to conduct certain activities for APHIS. Regulations governing the Veterinary Accreditation Program are found in Title 9 of the Code of Federal Regulations, parts 160, 161, and 162.

Need and Use of the Information: APHIS will collect information to determine that a veterinarian has met the requirements for being accredited, or for obtaining re-accreditation. APHIS will also collect information to ensure that accredited veterinarians are knowledgeable of current Federal and State animal health regulations, objectives and programs and are competent in their application. If information is not collected it would significantly destroy APHIS' ability to operate the Veterinary Accreditation Program.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 5001.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,001.

Animal and Plant Health Inspection Service

Title: Foreign Quarantine Notices.

OMB Control Number: 0579-0049.

Summary of Collection: Under the Plant Protection Act (PPA) (Title IV, Pub. L. 106-224, 114 Stat. 438, 7 U.S.C. 7701-7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of plant pests and other articles to prevent the introduction of plant pests into the United States. Regulations authorized by the PPA concerning the importation of nursery stock, plants, roots, bulbs, seeds, and other plant products to include log, lumber, and other unmanufactured wood articles are contained in Title 7, Code of Federal Regulations (CFR) part 319. Implementing the laws is necessary to prevent injurious plant and insect pest from entering the United States, a situation that could produce serious consequences for U.S. agriculture. The Animal and Plant Health Inspection Service (APHIS) is required to collect information from a variety of individuals, both within and outside the

United States, who are involved in growing, packing, handling, transporting, and importing foreign plants, roots, bulbs, seeds, importing foreign logs, lumber, other unmanufactured wood articles, and other plant products. APHIS will collect this information using a number of forms.

Need and Use of the Information:

APHIS will collect information to ensure that plants, fruits, vegetables, roots, bulbs, seeds, foreign logs, lumber, other unmanufactured wood articles, and other plant products imported into the United States do not harbor plant diseases or insect pests that could cause serious harm to U.S. agriculture.

Description of Respondents: Business or other for-profit; individuals or households; farms; Federal Government.

Number of Respondents: 92,429.

Frequency of Responses:

Recordkeeping; Reporting: On occasion.

Total Burden Hours: 95,423.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9-12018 Filed 5-21-09; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS-FV-09-0023]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice with request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection Specialty Crop Block Grant Program.

DATES: Comments on this notice must be received by July 21, 2009 to be assured of consideration.

Additional Information or Comments: Contact Docket Clerk, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0235, 1400 Independence Avenue, SW., Washington, DC 20250-0243; Fax: (202) 720-0016; or E-mail: scblockgrants@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Specialty Crop Block Grant Program.

OMB Number: 0581-0239.

Expiration Date of Approval: 3 years from date of OMB approval.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The information collection requirements in this request are applied only to those State departments of agriculture who voluntarily participate in the Specialty Crop Block Grant Program (SCBGP). The information collected is needed to certify that grant participants are complying with applicable program regulations. Data collected is the minimum information necessary to effectively carry out the requirements of the program, and to fulfill the intent of Section 101 of the Specialty Crops Competitiveness Act of 2004, Public Law 108-465 (Dec. 21, 2004).

The Specialty Crops Competitiveness Act of 2004 authorized the Secretary of Agriculture to make grants to States (at the time, defined to mean the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico) for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops. The program was appropriated funding in fiscal years 2006 through 2008. These grant funds were previously applied for and awarded to eligible State departments of agriculture. Therefore, State departments of agriculture can no longer apply for grants under the program. However, the program is still in effect because grant periods can be up to three years in length and currently, State departments of agriculture are reporting on previously awarded grants. This program, SCBGP, is separate from the Specialty Crop Block Grant Program-Farm Bill (SCBGP-FB), program.

A State department of agriculture participating in the SCBGP would have to submit a Request for Grant Amendment to AMS if there is a change in key personnel, scope or objectives of the grant, budget changes that exceed more than 20% of a project's total budget, and/or an extension of the grant period not to exceed three calendar years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.50 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 25.

Estimated Number of Responses: 25.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12.50 hours.

A State department of agriculture participating in the SCBGP is required to submit an Annual Performance Report to AMS 90 days after the completion of the first year of the grant period and once within 90 days after the second year of the grant period.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 104 hours.

A State department of agriculture participating in the SCBGP is required to submit to AMS 90 days after the expiration date of the grant period SF269 "Financial Status Report (Long Form)", if the project had program income, approved under OMB#0348-0039, or SF269A "Financial Status-Report (Short Form)", approved under OMB#0348-0038.

A State department of agriculture participating in the SCBGP is required to submit a Final Performance Report to AMS within 90 days following the expiration date of the grant period.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 78 hours.

No later than 30 days after completion of an audit on all grant expenditures, the State is required to submit an audit report/executive summary to AMS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 52 (All 50 states, Puerto Rico, and the District of Columbia).

Estimated Number of Responses: 52.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 156 hours.

The SCBGP is expected to accomplish the goals of enhancing the competitiveness of specialty crops.

This program would not be maintained by any other agency; therefore, the requested information will not be available from any other existing records.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The request for grant amendment, annual performance reports, final performance report, SF269 "Financial Status Report (Long Form)", or the SF269A "Financial Status Report (Short Form)", and the audit report/executive summary can be submitted electronically.

Finally, State departments of agriculture would be required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of normal business practice and consistent with USDA regulations (7 CFR Parts 3015 and 3016).

The estimated one-time cost for all State departments of agriculture in providing this information to the SCBGP is \$9,048. This total has been estimated by multiplying 351 total burden hours by \$25.78, an average of mean hourly earnings by state and local government white collar (excluding sales) employees. Data for computation of this hourly wage were obtained from the U.S. Department of Labor Statistic's publication "National Compensation Survey: Occupational Wages in the United States, June 2005", published August 2006 (Bulletin 2581). This publication can also be found at the following Web site: <http://www.bls.gov/ncs/ocs/sp/ncbl0832.pdf>.

Comments are invited on: (1) 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) 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. Comments may be sent to: Docket Clerk, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0235, 1400 Independence Avenue, SW., Washington, DC 20250-0243; Fax: (202) 720-0016; or E-mail: scblockgrants@usda.gov. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 18, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9-11969 Filed 5-21-09; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2007-0017]

Bayer CropScience; Determination of Nonregulated Status for Cotton Genetically Engineered for Glyphosate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a cotton line developed by Bayer CropScience, designated as transformation event GHB614, which has been genetically engineered for tolerance to the herbicide glyphosate, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Bayer CropScience in its petition for a determination of nonregulated status, our analysis of other scientific data, and comments received from the public in response to a previous notice announcing the availability of the petition for nonregulated status, our environmental assessment, and the pest risk assessment. This notice also announces the availability of our determination and finding of no significant impact.

DATES: *Effective Date:* May 22, 2009.

ADDRESSES: You may read the petition, the final environmental assessment, the pest risk assessment, the determination,

the finding of no significant impact, comments we received on our previous notice, and our responses to those comments in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming. To view these documents on the Internet, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0017>.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Patricia Beetham, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-0664, e-mail: patricia.k.beetham@aphis.usda.gov. To obtain copies of the petition, final environmental assessment, or the finding of no significant impact, contact Ms. Cindy Eck by telephone at (301) 734-0667 or via e-mail: cynthia.a.eck@aphis.usda.gov. The petition, final environmental assessment and finding of no significant impact are also available on the Internet at http://www.aphis.usda.gov/brs/aphisdocs/06_33201p.pdf and http://www.aphis.usda.gov/brs/aphisdocs/06_33201p_ea.pdf.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of 340.6 describe the form that a petition for a determination of nonregulated status.

must take and the information that must be included in the petition.

On November 28, 2006, APHIS received a petition seeking a determination of nonregulated status (APHIS No. 06-332-01p) from Bayer CropScience (BCS) of Research Triangle Park, NC, for cotton (*Gossypium hirsutum*) designated as transformation event GHB614, which has been genetically engineered for tolerance to the herbicide glyphosate, stating that cotton line GHB614 does not present a plant pest risk. BCS responded to APHIS' subsequent request for additional information and clarification on May 11, 2007.

Analysis

As described in the petition, cotton transformation event GHB614 utilizes the enzyme 5-enolpyruvylshikimate-3-phosphate synthase (EPSPS) gene isolated from a previously deregulated cotton event (Event GA21; APHIS petition number 97-099-01) and introduces two amino acid substitutions within the EPSPS gene (designated 2mEPSPS). These modifications decrease the binding affinity to glyphosate, thus producing tolerance to the herbicide. The 2mEPSPS protein allows the plant to tolerate applications of the broad spectrum herbicide glyphosate. Regulatory elements for the transgenes were obtained from *Agrobacterium tumefaciens* and were introduced into cotton cells using *Agrobacterium*-mediated transformation methodology. These regulatory sequences are not transcribed and do not encode proteins.

Transformation event GHB614 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from a plant pathogen. GHB614 cotton has been field tested in the United States since 2002 under notifications authorized by the APHIS. In the process of reviewing the permits for field trials of the subject cotton plants, APHIS determined that the vectors and other elements were disarmed and that trials, which were conducted under conditions of reproductive and physical confinement or isolation, would not present a risk of plant pest introduction or dissemination. APHIS has presented two alternatives in the draft environmental assessment (EA) based on its analyses of data submitted by BCS, a review of other scientific data, as well as data gathered from field tests conducted under APHIS oversight.

In a notice¹ published in the **Federal Register** on June 18, 2008 (73 FR 34968-34700, Docket No. APHIS-2007-0017), APHIS announced the availability of BCS' petition and a draft EA for public comment. APHIS solicited comments on whether the subject cotton event would present a plant pest risk and on the EA. APHIS received nine comments by the close of the 60-day comment period, which ended on August 18, 2008. There were six comments that supported deregulation, two from cotton industry groups and four from individuals. There were three comments that opposed deregulation, one comment from a non-government organization and two comments from individuals. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as an attachment to the finding of no significant impact.

Determination

Based on APHIS' analysis of field, greenhouse and laboratory data submitted by BCS, references provided in the petition, information described in the final EA and in the finding of no significant impact, and a careful evaluation of the comments provided by the public, APHIS has determined that GHB614 cotton will not pose a plant pest risk for the following reasons: (1) Gene introgression from GlyTol™ cotton (event GHB614) into wild relatives in the United States and its territories is extremely unlikely and is not likely to increase the weediness potential of any resulting progeny or adversely affect genetic diversity of related plants any more than would introgression from traditional cotton varieties; (2) it exhibits no characteristics that would cause it to be weedier than the non-genetically engineered parent cotton line or any other cultivated cotton; (3) it does not pose a risk to non-target organisms, including organisms beneficial to agriculture and Federally listed threatened or endangered species, and species proposed for listing; (4) it does not pose a threat to biodiversity as it does not exhibit traits that increase its weediness, and its unconfined cultivation should not lead to increased weediness of other cultivated cotton, it exhibits no changes in disease susceptibility, and it is unlikely to harm non-target organisms common to the agricultural ecosystem or Federally listed or proposed threatened or

endangered species; (5) compared to current cotton pest and weed management practices, cultivation of GlyTol™ cotton should not impact standard agricultural practices in cotton cultivation including those for organic farmers; and (6) disease susceptibility and compositional profiles of GlyTol™ cotton are similar to those of its parent line and other cotton cultivars grown in the United States; therefore no direct or indirect plant pest effects on raw or processed plant commodities are expected.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status for GHB614 cotton, an EA was prepared. The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on the final EA, the pest risk assessment, other pertinent scientific data, and our evaluation of the comments provided by the public, APHIS has reached a finding of no significant impact (FONSI) with regard to the determination that BCS' GHB614 cotton line and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the final EA and FONSI are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 18th day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-11972 Filed 5-21-09; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Forest Service

Crescent Ranger District; Deschutes National Forest; Oregon; Rim-Paunina Project

AGENCY: Forest Service, USDA.

¹ To view the notice, petition, EA, and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0017>.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) for a project called Rim-Paunina in the Walker Mountain area on the southern end of the Crescent Ranger District. The project focus is on developing and maintaining a diversity of wildlife habitats that are appropriate for an eastside dry forest environment. Potential actions include thinning of trees in variable densities and prescribed burning. This project also provides an additional opportunity for participation in a collaborative planning process with a diverse group of other interested stakeholders. The Rim-Paunina area is approximately a 45,000-acre watershed bordered by private industrial forest to the north and the Fremont/Winema National Forests to the south and east. It is mostly comprised of ponderosa and lodgepole pine forests with some mixed conifer on Walker Rim. It is located in T. 25-26 S, R. 8 E., Willamette Meridian. The alternatives will include the proposed action, no action, and additional alternatives that respond to issues generated through the scoping process. The agency will give notice of the full environmental analysis and decision making process so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by 30 days following the date that this notice appears in the **Federal Register**.

ADDRESSES: Send written comments to Chris Mickle, Team Leader, Crescent Ranger District, P.O. Box 208, Crescent, Oregon 97733, or submit to comments-pacificnorthwest-deschutes-crescent@fs.fed.us. Please put "Rim-Paunina Scoping" in the subject line of your e-mail. You will have another opportunity for comment when alternatives have been developed and the Environmental Impact Statement is made available.

FOR FURTHER INFORMATION CONTACT: Chris Mickle, Team Leader, Crescent Ranger District, P.O. Box 208, Crescent, Oregon 97733, phone (541) 433-3200.

Responsible Official: The responsible official will be John Allen, Deschutes National Forest Supervisor, 1001 SW Emkay Drive, Bend, Oregon 97701.

SUPPLEMENTARY INFORMATION:

Purpose and Need. The Forest Plan supports proactive management and enhancing the vigor of the forest, rather than reacting to an event (page 4-36). Therefore, the goal of this project is to utilize forestry techniques that disturb

the forest at appropriate levels to create and maintain a diversity of habitats closer to what historically occurred. There is a need to decrease the density of trees to provide a variety of stand structures and compositions appropriate to the Rim-Paunina biophysical environment in order to increase resilience and provide habitat for a variety of species (flora and fauna) across the landscape. Also, given that the Forest Service should place equal consideration to all resources and non-consumptive values to ensure they are weighted equally, then there is a need to contribute to the local and regional economies by providing timber and other wood fiber products now and in the future.

Proposed Action: The proposed action is to use silvicultural treatments, such as thinning of trees, to provide a diversity of habitats for Management Indicator Species more in line with historical conditions to maintain and enhance existing late and old structured stand characteristics, and encourage the development of such characteristics. This would occur on approximately 14,620 acres. Also, apply prescribed fire to fire dependent ecosystems to create habitat conditions that allow fire to perform its natural ecological function and more closely mimic natural processes that maintain white-headed woodpecker habitat on approximately 8,553 acres. Some of the prescribed burning acres are a subset of the tree thinning acres. These activities would apply scientifically sound Strategic Placement of Treatments (or SPOTS) on the landscape and maintain them through time to optimize diversity and juxtaposition of habitats. Opportunities resulting from vegetation management activities would offset costs and provide products to stimulate the economy.

Comment: Public comments about this proposal are requested in order to assist in identifying issues, determine how to best manage the resources, and to focus the analysis. Comments received to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such

confidentiality should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days. A draft EIS will be filed with the Environmental Protection Agency (EPA) and available for public review by Winter 2009/2010. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The final EIS is scheduled to be available early spring 2010. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions [*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)]. Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts [*City of Angoon v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)]. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is the Crescent District Ranger, Deschutes National Forest. The responsible official will decide where, and whether or not to designate a trail system, staging areas, and close roads. The responsible official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The Ranger District is trying additional outreach with this project, seeking input from a group of interested citizens that are participating in an effort to work more closely together. The District and participants will try to develop a stronger shared understanding of what is needed to successfully maintain and improve wildlife habitat in the planning area. If you are interested in joining or have more questions about the process, please notify the District, or Phil Chang, Program Administrator, Central Oregon Intergovernmental Council, 2363 SW Glacier Place, Redmond, OR 97756; or phone (541) 548-9534.

The Rim-Paunina Project decision and rationale will be documented in the Record of Decision. This project will be subject to Forest Service Appeal Regulations (35 CFR Part 215).

Holly Jewkes,

Crescent District Ranger.

[FR Doc. E9-11888 Filed 5-21-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold a meeting on June 5, 2009, in Quincy, CA. The purpose of the meeting is to review applications for Cycle 9 funding and select projects to be recommended to the Plumas National Forest Supervisor for calendar year 2010 funding consideration. The funding is available under Title II provisions of the Secure Rural Schools and Community Self Determination Act of 2000.

DATES AND ADDRESS: The meeting will take place from 9-3 at the Mineral Building Plumas/Sierra County Fairgrounds, 208 Fairgrounds Road, Quincy, CA.

FOR FURTHER INFORMATION CONTACT: (or for special needs): Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, P.O. Box 11500/159 Lawrence Street, Quincy, CA, 95971; (530) 283-7850; or by E-mail eataylor@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda items for the June 5 meeting include: (1) Forest Service Update; (2) Committee Review of Applications; and, (3) Recommendations for Cycle 9 funding distribution. The meetings are open to the public and individuals may address the Committee after being recognized by the Chair. Other RAC information may be obtained at <http://www.fs.fed.us/srs>.

Dated: May 14, 2009.

Terri Simon Jackson,

Land Management Planning Staff Officer.

[FR Doc. E9-11887 Filed 5-21-09; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2009-0027]

National Animal Identification System; Public Meetings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: This is a notice to inform the public of six upcoming meetings to discuss stakeholder concerns related to the implementation of the National Animal Identification System. The meetings are being organized by the Animal and Plant Health Inspection Service.

DATES: The meetings will be held on June 9, 11, 16, 18, 25, and 27, 2009, from 9 a.m. to 4 p.m. each day.

ADDRESSES: The public meetings will be held in Jefferson City, MO (June 9), Rapid City, SD (June 11), Albuquerque, NM (June 16), Riverside, CA (June 18), Raleigh, NC (June 25), and Jasper, FL (June 27).

FOR FURTHER INFORMATION CONTACT: Dr. Adam Grow, Director, Surveillance and Identification Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road, Unit 200, Riverdale, MD 20737; (301) 734-3752.

SUPPLEMENTARY INFORMATION: As part of its ongoing efforts to safeguard animal health, the U.S. Department of Agriculture (USDA) initiated implementation of a National Animal Identification System (NAIS) in 2004. The NAIS is a cooperative State-Federal-

industry program administered by USDA's Animal and Plant Health Inspection Service (APHIS). The purpose of the NAIS is to provide a streamlined information system that will help producers and animal health officials respond quickly and effectively to animal disease events in the United States.

The ultimate long-term goal of the NAIS is to provide State and Federal officials with the capability to identify all animals and premises that have had direct contact with a disease of concern within 48 hours after discovery. Meeting that goal requires a comprehensive animal-disease traceability infrastructure. An NAIS User Guide and a Business Plan, both available on our Web site at http://animalid.aphis.usda.gov/nais/animal_id/index.shtml, provide detailed information about our plans for implementing the system.

Despite concerted efforts, APHIS has not been able to fully implement the NAIS. Many of the same issues that producers originally had with the system, such as the cost and impact on small farmers, privacy and confidentiality, and liability, continue to cause concern.

In order to provide individuals and organizations an opportunity to discuss their concerns regarding the NAIS and offer potential solutions, we plan to hold several public meetings and to solicit comments via our Web site. Our goal is to gather feedback and input from a wide range of stakeholders to assist us in making an informed decision regarding both the future of the NAIS and the objectives and direction for animal identification and traceability. We would particularly welcome feedback on the following topics:

- *Cost.* What are your concerns about the cost of the NAIS? What steps would you suggest APHIS use to address cost?

- *Impact on small farmers.* What are your concerns about the effect of the NAIS on small farmers? What approaches would you suggest APHIS take to address the potential impact on small farmers?

- *Privacy and confidentiality.* What are your concerns regarding how the NAIS will affect your operation's privacy and/or the confidentiality of your operation? What steps or tactics would you suggest APHIS use to address privacy and confidentiality issues?

- *Liability.* What are your concerns about your operation's liability under the NAIS? What would you suggest APHIS consider to address liability concerns?

- *Premises registration.* Do you have any suggestions on how to make premises registration, or the identification of farm or ranch locations, easier for stakeholders? How should we address your concerns regarding premises registration?

- *Animal identification.* Do you have any suggestions on how to make animal identification practical and useful to stakeholders while simultaneously meeting the needs of animal health officials who must conduct disease tracebacks?

- *Animal tracing.* Do you have any suggestions on how to make the animal tracing component practical, in particular the reporting of animal movements to other premises, while meeting the needs of animal health officials who must conduct disease tracebacks?

The meeting schedule is tentative as of the date of this publication. Please check our Web site at <http://www.usda.gov/nais/feedback> for the most up-to-date meeting information. The list of discussion topics is also available on the Web site. On-site registration will begin at 8 a.m. on the day of each meeting. All persons attending must register prior to the meetings.

Although preregistration is not required, participants are asked to preregister by sending Aphis e-mail at NAISSessions@aphis.usda.gov or calling 301-734-0799. In the subject line of the e-mail, indicate your name (or organization name) and the location of the meeting you plan to attend. If you wish to present comments during one of the meetings, please include your name (or organization name) and address in the body of the message. Members of the public who are not able to attend may also submit and view comments via the Federal eRulemaking Portal at <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0027>. Additional information regarding the meetings may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 20th day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-12107 Filed 5-20-09; 4:15 pm]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2009-0026]

National Wildlife Services Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Wildlife Services Advisory Committee.

DATES: The meeting will be held on June 9 and 10, 2009, from 8 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the National Aeronautics and Space Administration's Plum Brook Station, 6100 Columbus Avenue, Sandusky, OH.

FOR FURTHER INFORMATION CONTACT: Mrs. Joanne Garrett, Director, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737; (301) 734-7921.

SUPPLEMENTARY INFORMATION: The National Wildlife Services Advisory Committee (the Committee) advises the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Wildlife Services (WS) program. The Committee also serves as a public forum enabling those affected by the WS program to have a voice in the program's policies.

The meeting will focus on operational and research activities. The Committee will discuss WS efforts to increase operational capacity through prioritizing research objectives. Additionally, the Committee will discuss pertinent national programs and how to increase their effectiveness, as well as ensuring WS remains an active participant in the goal of agricultural protection.

The meeting will be open to the public. However, due to time constraints, the public will not be allowed to participate in the discussions during the meeting. Written statements on meeting topics may be filed with the Committee before or after the meeting by sending them to the person listed under **FOR FURTHER INFORMATION CONTACT**. Written statements may also be filed at the meeting. Please refer to Docket No. APHIS-2009-0026 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 18th day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-11971 Filed 5-21-09; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2009-0029]

Multi-Agency Informational Meeting Concerning Compliance With the Federal Select Agent Program; Public Meeting

AGENCIES: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This is to notify all interested parties, including individuals and entities possessing, using, or transferring biological agents and toxins listed in 7 CFR 331.3, 9 CFR 121.3 and 121.4, or 42 CFR 73.3 and 73.4, that a meeting will be held to provide specific regulatory guidance related to the Federal Select Agent Program established under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. The meeting is being organized by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, the Department of Health and Human Services' Centers for Disease Control and Prevention, and the Department of Justice's Federal Bureau of Investigation. Issues to be discussed include entity registration, security risk assessments, biosafety requirements, and security measures.

DATES: The meeting will be held on August 12, 2009, from 7:30 a.m. to 5 p.m. Persons who wish to attend the meeting must register by July 1, 2009.

ADDRESSES: The meeting will be held at the Roybal Campus, Auditorium A, Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, GA.

FOR FURTHER INFORMATION CONTACT:

APHIS: Ms. Aimee M. Hyten, Compliance Manager, APHIS Agriculture Select Agent Program, PPQ, ASAP, APHIS, 4700 River Road Unit 2, Riverdale, MD 20737-1236; (301) 734-5281.

CDC: Patrick J. Fenneran, Training & Outreach Officer, Division of Select Agents and Toxins, CDC, 1600 Clifton Road MS A-46, Atlanta, GA 30333; (404) 718-2000.

SUPPLEMENTARY INFORMATION: Title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, "Enhancing Controls on Dangerous Biological Agents and Toxins" (sections 201 through 231), provides for the regulation of certain biological agents and toxins by the Department of Health and Human Services (subtitle A, sections 201–204) and the Department of Agriculture (subtitle B, sections 211–213), and provides for interagency coordination between the two departments regarding overlap agents and toxins (subtitle C, section 221). For the Department of Health and Human Services, the Centers for Disease Control and Prevention (CDC) has been designated as the agency with primary responsibility for implementing the provisions of the Act; the Animal and Plant Health Inspection Service (APHIS) is the agency fulfilling that role for the Department of Agriculture. CDC and APHIS list select agents and toxins in 42 CFR 73.3 and 73.4, 7 CFR 331.3, and 9 CFR 121.3 and 121.4, respectively. The Federal Bureau of Investigation's (FBI) Criminal Justice Information Service conducts security risk assessments of all individuals and nongovernmental entities that request to possess, use, or transfer select agents and toxins.

The meeting announced here is an opportunity for the regulated community (i.e., registered entity responsible officials, alternate responsible officials, and entity owners) and other interested individuals to obtain specific regulatory guidance and information on standards concerning biosafety and biosecurity issues related to the Federal Select Agent Program. Representatives from CDC, APHIS, and the FBI will be present at the meeting to address questions and concerns. Entity registration, security risk assessments, biosafety requirements, and security measures are among the issues that will be discussed.

All attendees must register in advance of the meeting. For those unable to attend in person, the meeting will be available at no cost as a Webcast for a limited number of registrants. There are two ways to register depending upon the U.S. citizenship status of the attendee:

- Citizens of the United States must complete a U.S. citizen registration form online at <http://www.selectagents.gov> and submit it to the CDC by July 1, 2009; or
- Non-citizens (including lawful permanent residents) must complete a non-citizen registration form online at <http://www.selectagents.gov> and submit it to the CDC prior to July 1, 2009.

Registrants must also send copies of all required documentation (e.g., passport, visa, permanent resident card, etc.) to the CDC by the July 1, 2009, deadline. A full list of required documentation is located at the Web site listed above. In addition, non-citizens will need to bring all personal documentation to the meeting.

Travel directions to the CDC Roybal Campus are available on the Internet at <http://www.cdc.gov/about/resources/visitGuide.htm>. In addition to the documents listed above, picture identification and vehicle registration/rental car agreement are required to gain access to the parking facilities and the building. MARTA Route 6 (from Inman Park Station on the East/West and Proctor Creek lines and Lindbergh Center Station on the North/South and Northeast/South lines) and Route 245—Kensington/Emory Express (from Kensington Station on the East/West line and Lindbergh Center Station on the North/South and Northeast/South lines) both serve the CDC Roybal Campus.

If you require special accommodations, such as a sign language interpreter, please call or write one of the individuals listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 18th day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–11970 Filed 5–21–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–08–0109; FV 09–376]

Notice of Funds Availability (NOFA) Inviting Applications for the Specialty Crop Block Grant Program-Farm Bill (SCBGP–FB)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces the availability of approximately \$49,000,000 in grant funds, less USDA administrative costs, to enhance the competitiveness of specialty crops. SCBGP–FB funds are authorized by the Food, Conservation, and Energy Act of 2008 (the Farm Bill). State departments of agriculture are encouraged to develop their grant applications promptly. The Farm Bill requires USDA to obligate the grant funds under this program by the

end of the fiscal year, September 30, 2009, which necessitates a short application period. State departments of agriculture interested in obtaining grant program funds are invited to submit applications to USDA. State departments of agriculture, meaning agencies, commissions, or departments of a State government responsible for agriculture within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are eligible to apply.

DATES: Applications must be received between May 22, 2009 and not later than August 26, 2009.

ADDRESSES: Applications may be sent to: SCBGP, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0235, Room 2077 South Building, Washington, DC 20250–0235.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Phone: (202) 690–4942, e-mail: trista.etzig@usda.gov or your State department of agriculture listed on the SCBGP and SCBGP–FB Web site at <http://www.ams.usda.gov/fv/>.

SUPPLEMENTARY INFORMATION: SCBGP–FB is authorized under Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) and amended under Section 10109 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (the Farm Bill). SCBGP–FB is currently implemented under 7 CFR part 1291 (published March 27, 2009; 74 FR 13313).

The SCBGP–FB assists State departments of agriculture in solely enhancing the competitiveness of U.S. specialty crops. Specialty crops are defined as fruits and vegetables, dried fruit, tree nuts, horticulture, nursery crops (including floriculture). AMS encourages States to develop projects solely to enhance the competitiveness of specialty crops pertaining to the following issues affecting the specialty crop industry: Increasing child and adult nutrition knowledge and consumption of specialty crops; participation of industry representatives at meetings of international standard setting bodies in which the U.S. government participates; improving efficiency and reducing costs of distribution systems; assisting all entities in the specialty crop distribution chain in developing "Good Agricultural Practices", "Good Handling Practices", "Good Manufacturing Practices", and in cost-share arrangements for funding audits of such

systems for small farmers, packers and processors; investing in specialty crop research, including organic research to focus on conservation and environmental outcomes; enhancing food safety; developing new and improved seed varieties and specialty crops; pest and disease control; and sustainability. Projects that support biobased products and bioenergy and energy programs, including biofuels and other alternative uses for agricultural and forestry commodities (development of biobased products) should see the USDA energy Web site at: <http://www.usda.gov/rus/index2/0208/EnergyPrograms.htm> for information on how to submit those projects for consideration to the energy programs supported by USDA. Also, agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public health corporations, economic development corporations, regional farmers' market authorities and tribal governments that are interested in submitting projects that support farmers' markets that do not solely enhance the competitiveness of eligible specialty crops should visit the Farmers' Market Promotion Program (FMPP) Web site at: <http://www.ams.usda.gov/fmpp> for information on how to submit those projects for consideration to FMPP. Each interested State department of agriculture must submit an application for SCBGP-FB grant funds anytime between May 22, 2009 and on or before August 26, 2009, to the USDA contact noted in the **FOR FURTHER INFORMATION** section. AMS will work with each State department of agriculture and provide assistance as necessary.

Other organizations interested in participating in this program should contact their local State department of agriculture. State departments of agriculture specifically named under the authorizing legislation should assume the lead role in SCBGP-FB projects, and use cooperative or contractual linkages with other agencies, universities, institutions, and producer, industry or community-based organizations as appropriate.

Additional details about the SCBGP-FB application process for all applicants are available at the SCBGP-FB Web site: <http://www.ams.usda.gov/fv/>.

To be eligible for a grant, each State department of agriculture's application shall be clear and succinct and include the following documentation satisfactory to AMS:

(a) One SF-424 "Application for Federal Assistance".

(b) SF-424A "Budget Information—Non-Construction Programs" showing the budget for each project.

(c) One SF-424B "Assurances—Non-Construction Program".

(d) Completed applications must also include one State plan to show how grant funds will be utilized solely to enhance the competitiveness of specialty crops. The State plan shall include the following:

(1) Cover page and granting processes. Include the point of contact and lead agency for administering the plan. Provide a description of the affirmative steps taken to conduct outreach to socially disadvantaged farmers and beginning farmers. Describe how these groups were identified and the methods used to reach out to them. Identify if an award was made to either a socially disadvantaged farmer or a beginning farmer. If steps were not taken to conduct outreach to these groups, provide a justification for why not. Provide a description of the affirmative steps taken to conduct a competitive grant process. Include the steps taken to conduct outreach to specialty crop stakeholders to receive and consider public comment to identify their priority needs in enhancing the competitiveness of specialty crops. Identify the methods used to solicit proposals that meet specialty crop stakeholders' needs, including any focus on multi-state projects. Include a description of the process used to review proposals in a fair and equitable manner. State departments of agriculture may also provide a copy of the issued request for proposals. If a competitive grant process was not used, provide a justification why not.

(2) Project title and abstract. Include the title of the project and an abstract of 200 or fewer words for each project.

(3) Project purpose. For each project, clearly state the purpose of the project. Describe the specific issue, problem, interest, or need to be addressed. Explain why the project is important and timely. If funding is being directed at a State marketing program, describe how the State will ensure that funding is being used solely to enhance the competitiveness of specialty crops as defined in 7 CFR 1291.2(n). If a project builds on a previous Specialty Crop Block Grant Program (SCBGP) or SCBGP-FB project, indicate clearly how the new project compliments previous work. For each project, indicate if the project will be or has been submitted to or funded by another Federal or State grant program.

(4) Potential impact. Discuss the number of people or operations affected, the intended beneficiaries of each

project, and/or potential economic impact if such data are available and relevant to the project.

(5) Expected Measurable Outcomes. For each project, describe at least one distinct, quantifiable, and measurable outcome-oriented objective that directly and meaningfully supports the project's purpose. The measurable outcome-oriented objective must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public. Outcome measures may be long term that exceed the grant period. Describe how performance toward meeting outcomes will be monitored. For each project, include a performance-monitoring plan to describe the process of collecting and analyzing data to meet the outcome-oriented objectives.

(6) Work Plan. For each project, explain briefly the activities that will be performed to accomplish the objectives of the project. Be clear about who will do the work. Include appropriate time lines.

(7) Budget Narrative. Provide in sufficient detail information about the budget categories listed on SF-424A for each project to demonstrate that grant funds are being expended on eligible grant activities that meet the purpose of the program. Indirect costs for this grant period should not exceed 10 percent of any proposed budget. Provide a justification if administrative costs are higher than 10 percent.

(8) Project Oversight. Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration for each project.

(9) Project Commitment. Describe how all grant partners commit to and work toward the goals and outcome measures of each proposed project(s).

(10) Multi-State Projects. If the project is a multi-state project, describe how the States are going to collaborate effectively with related projects with one State assuming the coordinating role. Indicate the percent of the budget covered by each State.

Each State department of agriculture that submits an application that is reviewed and approved by AMS is to receive a base grant of \$162,240.00 to enhance the competitiveness of specialty crops. In addition, AMS will allocate the remainder of the grant funds based on the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production using the latest available (2007 National Agricultural Statistics Service (NASS) cash receipt data for the 50 States, 2006-2007 "Gross Income from Puerto

Rico's Agricultural Products" statement for the Commonwealth of Puerto Rico, 2002 Census of Agriculture cash receipts for Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands) specialty crop production data in all States whose applications are accepted.

The amount of the base grant plus value of production available to each State department of agriculture shall be:

(1) Alabama	\$440,780.61
(2) Alaska	176,642.72
(3) American Samoa	195,567.84
(4) Arizona	1,106,440.85
(5) Arkansas	219,606.24
(6) California	16,188,340.37
(7) Colorado	625,770.15
(8) Connecticut	376,123.29
(9) Delaware	225,990.32
(10) District of Columbia ...	162,240.00
(11) Florida	4,069,642.85
(12) Georgia	1,010,640.49
(13) Guam	164,691.85
(14) Hawaii	377,026.79
(15) Idaho	876,435.46
(16) Illinois	435,142.33
(17) Indiana	380,572.10
(18) Iowa	242,767.08
(19) Kansas	213,648.34
(20) Kentucky	236,997.73
(21) Louisiana	337,593.15
(22) Maine	380,710.88
(23) Maryland	500,623.24
(24) Massachusetts	388,680.46
(25) Michigan	1,222,034.08
(26) Minnesota	574,739.62
(27) Mississippi	267,542.17
(28) Missouri	268,886.55
(29) Montana	248,694.85
(30) Nebraska	284,484.36
(31) Nevada	201,307.05
(32) New Hampshire	228,792.64
(33) New Jersey	652,724.43
(34) New Mexico	378,865.33
(35) New York	1,091,447.25
(36) North Carolina	1,085,174.62
(37) North Dakota	520,675.46
(38) Northern Mariana Is- lands	163,404.95
(39) Ohio	804,113.47
(40) Oklahoma	332,160.94
(41) Oregon	1,661,822.32
(42) Pennsylvania	932,679.52
(43) Puerto Rico	362,375.24
(44) Rhode Island	202,474.10
(45) South Carolina	400,573.84
(46) South Dakota	185,625.84
(47) Tennessee	453,315.35
(48) Texas	1,753,538.35
(49) Utah	236,132.78
(50) Vermont	203,959.37
(51) Virgin Islands	163,162.42
(52) Virginia	453,639.88
(53) Washington	2,899,167.66
(54) West Virginia	184,486.83
(55) Wisconsin	740,776.70
(56) Wyoming	180,546.90

Funds not obligated will be allocated pro rata to the remaining States which applied during the specified grant application period to be solely expended on projects previously approved in their State plan. In such

event, a revised application shall be submitted, by a date before the end of the fiscal year, September 30, 2009, determined by AMS, showing how the additional funds will be utilized to enhance the competitiveness of specialty crops.

AMS encourages applicants to submit SCBGP-FB applications electronically through the central Federal grants Web site, <http://www.grants.gov> instead of mailing hard copy documents. Original signatures are not needed on the SF-424 and SF-424B when applying through <http://www.grants.gov> and applicants are not required to submit any paper documents to AMS. Applicants considering the electronic application option are strongly urged to familiarize themselves with the Federal grants Web site and begin the application process well before the application deadline. For information on how to apply electronically, please consult <http://www.grants.gov/GetRegistered>.

Applicants submitting hard copy applications should submit one copy of the application package. The SF-424 must be signed (with an original signature) by an official who has authority to apply for Federal assistance. Hard copy applications should be sent only via express mail to AMS at the address noted at the beginning of this notice because USPS mail sent to Washington, DC headquarters is sanitized, resulting in possible delays, loss, and physical damage to enclosures. AMS will send an email confirmation when applications arrive at the AMS office.

Applicants who submit hard copy applications are also encouraged to submit electronic versions of their application directly to AMS via email addressed to scblockgrants@usda.gov in one of the following formats: Word (*.doc); or Adobe Acrobat (*.pdf). Alternatively, a standard 3.5" HD diskette or a CD may be enclosed with the hard copy application.

SCBGP-FB is listed in the "Catalog of Federal Domestic Assistance" under number 10.170 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all Federally assisted programs.

Authority: 7 U.S.C. 1621 note.

Dated: May 20, 2009.

Robert C. Keeney,
Acting Associate Administrator, Agricultural Marketing Service.

[FR Doc. E9-12094 Filed 5-20-09; 4:15 pm]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meetings of the Connecticut 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 both an orientation meeting and planning meeting of the Connecticut Advisory Committee to the U.S. Commission on Civil Rights will convene at 1 p.m. on Wednesday, May, 26, 2009 in Room 2600, located in the Legislative Building, 210 Capitol Avenue, Hartford, Connecticut. The purpose of the orientation meeting is to inform members about the rules and procedures applicable to members of the Committee, including Federal ethics and laws and rules of conduct, and to the operations of Committee members. The purpose of the planning meeting is to review civil rights issues in the State and plan future activities.

Members of the public are entitled to submit written comments. The address is Eastern Regional Office, 624 9th St., NW., 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 meetings and require the services of a sign language interpreter should contact the Regional Office at least two (2) working days before the scheduled date of the meetings.

Records generated from these meetings may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. 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 meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, May 18, 2009.

Christopher Byrnes,
Chief, Regional Programs Coordination Unit.
[FR Doc. E9-11954 Filed 5-21-09; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Submission for OMB Review;
Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: 2009 NOAA Coastal Services Center Coastal Resource Management Customer Survey.

OMB Control Number: 0648-0308.

Form Number(s): None.

Type of Request: Regular submission.

Burden Hours: 31.

Number of Respondents: 500.

Average Hours per Response: 15 minutes.

Needs and Uses: In continuing compliance with Executive Order 12862, Setting Customer Service Standards, this survey will be used by the NOAA Coastal Services Center to obtain information from our customers—State and territorial coastal resource managers—regarding their information needs based on their coastal resource management responsibilities, technology and information management capabilities, and critical resource management issues, in order to make quality improvements to the Center's products and services.

Frequency: Once every three years.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or David_Rostker@omb.eop.gov.

Dated: May 18, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-11959 Filed 5-21-09; 8:45 am]

BILLING CODE 3510-JE-P

DEPARTMENT OF COMMERCE

Submission for OMB Review;
Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Community-based Restoration Program Progress Reports.

OMB Control Number: 0648-0472.

Form Number(s): None.

Type of Request: Regular submission.

Burden Hours: 4,145.

Number of Respondents: 250.

Average Hours per Response: Semi-annual reports, 7 hours (plus 30 minutes for additional questions for specified larger grantees); and annual reports, 11 hours and 15 minutes (plus one hour for additional questions for specified larger grantees).

Needs and Uses: Authorized by the Magnuson-Stevens Fishery Conservation and Management Act and the Fish and Wildlife Coordination Act, this collection is needed to assist with the administration and evaluation of the NOAA Community-based Restoration Program (CRP), which has provided financial assistance on a competitive basis to over 1,200 habitat restoration projects since 1996. The information is used to provide accountability for the CRP and NOAA on the expenditure of federal funds used for restoration, contributes to the Government Performance and Results Act (GPRA) "acres restored" measure, and to the President's Wetlands Initiative goal of 3 million acres of wetland restoration, enhancement and protection by 2010. Information is required only from parties receiving CRP funds.

The NOAA Restoration Center (Center) will continue collecting the same information; however, the Center is requesting to begin to use the SF-PPR (Performance Progress Reports) family of forms, a set of uniform reporting formats used for standard reporting by recipients on their performance under grants and cooperative agreements. This transition is in anticipation of government-wide standardization.

Affected Public: Not-for-profit organizations, State, Local or Tribal Government, business or other for-profit organizations.

Frequency: Semi-annually and annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or David_Rostker@omb.eop.gov.

Dated: May 18, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-11960 Filed 5-21-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

RIN 0648-XP17

Endangered Species; File No.14381 ;
Correction

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

ACTION: Notice; receipt of application; correction.

SUMMARY: On May 13, 2009, a notice was published in the **Federal Register** announcing that the NMFS Pacific Islands Region, 1601 Kapiolani Boulevard, Honolulu, HI 96814, had applied in due form for a permit to take green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), olive ridley (*Lepidochelys olivacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research. That document inadvertently provided incorrect requested take numbers. This document corrects that oversight.

DATES: Written, telefaxed, or e-mail comments must be received on or before June 22, 2009.

FOR FURTHER INFORMATION CONTACT: Patrick Opay, (301)713-2289.

SUPPLEMENTARY INFORMATION:

Correction

The notice of a request for scientific research Permit No. 14381 (74 FR 22517; May 13, 2009) contained an error

in that it incorrectly presented the proposed requested take for the requested action. Accordingly, the **SUPPLEMENTARY INFORMATION** section is corrected to read as follows:

The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The research would collect scientific data on sea turtles incidentally captured in the Hawaii Deep-Set Longline Fishery, the Hawaii Shallow-Set Longline Fishery, and the American Samoa Longline Fishery. This data would assist NMFS efforts to understand sea turtle interactions with the fisheries and to mitigate their threat to these species. The applicant proposes to flipper tag, measure, photograph, tissue sample, and attach satellite tags to an anticipated annual take of up to 46 loggerhead, 16 leatherback, 1 green, and 4 olive ridley sea turtles captured in the Hawaii Shallow-Set Longline Fishery. The applicant proposes to flipper tag, measure, photograph, tissue sample, and attach satellite tags to an anticipated annual take of up to 6 loggerhead, 6 leatherback, 12 green, 12 olive ridley, and 6 hawksbill sea turtles captured in the American Samoa Longline Fishery. The applicant proposes to flipper tag, measure, photograph, tissue sample, and attach satellite tags to an anticipated annual take of up to 6 (18 over three years) loggerhead, 13 (39 over three years) leatherback, 7 (21 over three years) green, and 41 (123 over three years) olive ridley sea turtles captured in the Hawaii Deep-Set Longline Fishery. The research would occur in the Pacific Ocean through April 1, 2015. No mortalities are expected from the research. Researchers would also collect sea turtle carcasses of animals killed in fishery activities that occur in the Pacific Ocean. All other information contained in the original document is unchanged.

Dated: May 18, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–12058 Filed 5–21–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XP35

Magnuson–Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application submitted by the Massachusetts Division of Marine Fisheries (MADMF) contains all of the required information and warrants further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies and Spiny Dogfish Fishery Management Plans (FMPs). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would enable researchers to study the effects of a spiny dogfish excluder grate within a raised footrope whiting trawl, would grant exemptions from the NE multispecies regulations as follows: Gear restrictions while fishing in the Gulf of Maine (GOM) Regulated Mesh Area (RMA); NE multispecies days-at-sea (DAS) effort control measures; GOM Rolling Closure areas; and NE multispecies minimum fish sizes for sampling purposes only.

Regulations under the Magnuson–Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before June 8, 2009.

ADDRESSES: You may submit written comments by any of the following methods:

• Email: DA9-058@noaa.gov. Include in the subject line “Comments on MADMF whiting fishery EFP.”

• Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on MA MADMF whiting fishery EFP, DA9–058.”

• Fax: (978) 281–9135.

FOR FURTHER INFORMATION CONTACT:

Allison Murphy, Fishery Management Specialist, 978–281–9122.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted on March 4, 2009, by David Chosid, the conservation engineering project leader at MADMF. The primary goal of this study is to investigate the effects of an experimental excluder grate in order to reduce catch rates of spiny dogfish and maximize the catch rates of whiting, using a raised footrope whiting trawl. The results of this research could be submitted to the New England Fishery Management Council to provide information that could be used to enhance the management of the whiting and spiny dogfish fisheries.

The project is proposed to be conducted from June 2009 through September 2009. One fishing industry collaborator would conduct a total of 56, 1-hour tows using the excluder grate in a raised footrope whiting trawl over the course of 14 trips. The vessel would use a 2.5-inch (6.4-cm) diamond codend mesh and, with the exception of the spiny dogfish grate, the gear would be configured as a standard raised footrope trawl. All experimental tows would occur between 42°12' W. long. and 42°30' W. long. in statistical areas 513 and 514. Fishing would occur along the western edge of Stellwagen Bank National Marine Sanctuary, but not within it. An underwater camera would be attached to the net to observe the behavior of spiny dogfish and whiting. Catches in the codend would be quantified. MADMF would have at least one staff member on board the vessel at all times during the experimental tows.

Due to the small mesh size used in the whiting fishery, this activity would require an exemption from gear restrictions while fishing in the GOM RMA found at 50 CFR 648.80(a)(3)(i). The researchers are requesting permission to fish outside of the small mesh exemption areas and time restrictions in order to demonstrate successful avoidance of the target species, spiny dogfish. Based on industry recommendations, whiting and spiny dogfish are expected to be in relatively high abundance in the

proposed research location. The requested exemption would help ensure that adequate densities of fish are present to conduct valid testing and provide sound statistical evidence of gear performance within that area. Additionally, work outside the Special Access Program (SAP) area could offer further possibilities for an extended whiting fishery. An exemption from the use of NE multispecies DAS is necessary because, due to the small mesh size of the raised footrope trawl, landing NE multispecies under the DAS possession limits would be prohibited and thus inconsistent with the purposes of charging DAS. In lieu of fishing under a NE multispecies DAS, the project would be required to adhere to a multispecies bycatch cap of 10 percent of the total weight of fish caught overall during the course of the research. No NE multispecies would be landed for sale, with the exception of small-mesh multispecies. An exemption from the GOM Rolling Closure areas is necessary so that the net may be tested when targeted species are present in order to prove successful avoidance. Additionally, this EFP would include a temporary exemption from multispecies minimum size limits at § 648.86 for sampling purposes only. This exemption would allow measurement and recording biological information of undersized specimens prior to their discard.

Small-mesh multispecies caught during the research would be landed and sold, up to the current possession limit, to provide additional funding for the project. All other organisms, including small-mesh multispecies with high expected survival rates, would be released as quickly and carefully as practicable. The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: May 18, 2009.

Kristen C. Koch

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E9-12034 Filed 5-21-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP39

Mid-Atlantic Fishery Management Council (MAFMC); 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 Research Set-Aside Committee (RSA), its Squid, Mackerel, Butterfish Committee (SMB), its Surfclam, Ocean Quahog, and Tilefish Committee, its Ecosystems and Ocean Planning Committee, its Executive Committee, and its Annual Catch Limits (ACL) and Accountability Measures (AM) Committee will hold public meetings.

DATES: The meetings will be held Monday, June 8, 2009 through Thursday, June 11, 2009. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Radisson Martinique on Broadway, 49 West 32nd Street, New York, NY 10001; telephone: (212) 736-3800.

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 Monday, June 8 (in closed session) the RSA Committee will meet with NMFS officials from noon until 3 p.m. The RSA Committee will meet (in open session) NMFS Cooperative Research staff from 3 p.m. until 5 p.m. On Tuesday, June 9, the Squid, Mackerel, Butterfish Committee will meet from 8 a.m. until 11 a.m. The Surfclam, Ocean Quahog, and Tilefish Committee will meet from 11 a.m. until 12:30 p.m. The Ecosystems and Ocean Planning Committee will meet from 1:30 p.m. until 4:30 p.m. A scoping session for Sea Turtle Conservation and Recovery in Relation to the Atlantic Trawl Fisheries will be held from 7 p.m. until 9 p.m. On Wednesday, June 10, the Council will hold its Business Session from 8 a.m. until 9:45 a.m. From 9:45 a.m. until 10:30 a.m., NMFS officials will provide a presentation regarding the agency's Sea Turtle Conservation

and Recovery Strategy. From 10:30 a.m. until 12 p.m., the Council will discuss Amendment 11 to Squid, Mackerel, and Butterfish Fishery Management Plan (FMP). From 1 p.m. until 3 p.m., the Council will discuss Amendment 5 to the Monkfish FMP. From 3 p.m. until 4:30 p.m., Squid, Mackerel, and Butterfish Specifications for 2010 will be developed and adopted. From 4:30 p.m. until 5:30 p.m., Surfclam and Ocean Quahog Specifications for 2010 will be developed and adopted. On Thursday, June 11, the Executive Committee will meet from 8 a.m. until 9 a.m. The ACL/AM Committee will meet from 9 a.m. until 10:30 a.m. The Council will convene at 10:30 a.m. to receive a presentation on the New England Council's Essential Fish Habitat (EFH) Omnibus Amendment from 10:30 a.m. until noon. From 1 p.m. until 1:30 p.m., the Council will receive a presentation from Rutgers University Scientists regarding "Developing Ecological Indicators for Spatial Fisheries Management". NMFS' officials will provide a Marine Debris Program presentation from 1:30 p.m. until 2:30 p.m. From 2:30 p.m. until 4 p.m., the Council will receive Committee Reports and discuss and act on any continuing or new business.

Agenda items by day for the Council's Committees and the Council itself are: Monday, June 8, the RSA Committee with the NMFS' Cooperative Research Staff will hold a closed session to review and comment on 2010 RSA proposals. In open session, the RSA Committee will receive a presentation from the NMFS' Cooperative Research Staff on NMFS' draft Cooperative Research Strategic plan, review and discuss Mid-Atlantic RSA program performance and ways to improve program coordination with other cooperative research efforts, and develop comments as appropriate for Council consideration. On Tuesday, June 9, the Squid, Mackerel, and Butterfish Committee will meet with Advisors to review the Scientific and Statistical Committee's (SSC) advice and Monitoring Committee's recommendations for the 2010 quota levels and associated management measures; develop quota specifications and associated management measures for Council consideration and action; review and address status of Amendment 11; and, review and discuss butterfish bycatch in Hudson Canyon. The Surfclam, Ocean Quahog, and Tilefish Committee will meet with Advisors to review staff recommendations for the 2010 quota specifications and associated

management measures for surfclams and ocean quahogs; and, develop quota specifications and associated management measures for Council consideration and action. The Ecosystem and Ocean Planning Committee will meet to review and discuss NMFS' Report to Congress [State of Science to Support an Ecosystem Approach to Regional Fishery Management—MSA Section 406(f)]; receive an update on status of proposed LNG facilities in the Mid-Atlantic Council's jurisdiction off New Jersey/New York; and, receive an overview of NMFS' role and responsibilities regarding non-fishery uses of the ocean. An evening scoping session for Sea Turtle Conservation and Recovery in Relation to the Atlantic Trawl Fisheries will be held. On Wednesday, June 10, the Council will convene to conduct its regular Business Session, receive Organizational, Council Liaison, Executive Director Reports, and receive a report on the status of MAFMC's FMPs. A presentation will be provided by NMFS officials on Sea Turtle Strategy and Potential Impacts on Mid-Atlantic Fisheries. The Council will review alternatives associated with the proposed management measures and select preferred alternatives for Amendment 11 to the Squid, Mackerel, and Butterfish FMP. The Council will also review and adopt the Public Hearing Document (PHD) and associated Draft Environmental Impact Statement (DEIS) regarding Amendment 11. The Council will review the Monkfish Advisory Panel, Oversight Committee, and the SSC recommendations, and identify measures to be developed and considered in the DEIS for Amendment 5 to the Monkfish FMP. The Council will review the SMB Committee's recommendations for 2010 quota specifications and associated management measures, and develop and adopt 2010 quota specifications and associated management measures for Atlantic mackerel, squids, and butterfish. The Council will review the Surfclam and Ocean Quahog Committee's recommendations for 2010 quota specifications (year 3 of the existing 2008–10 multi-year quota specifications) and associated management measures, and, as appropriate, adopt any changes to the 2010 quota specifications. On Thursday June 11, the Executive Committee will meet to review highlights of the May 2009 Council Coordination Committee (CCC) meeting, review and discuss proposed rules for Marine Protected Areas (MPA) designations and Council operations Statement of Operating

Practices and Procedures (SOPP), and consider scheduling a one-day meeting to address ACL/AM options. The ACL/AM Committee will review comments received during the current scoping period, and discuss possible additions, deletions, or modifications to description of alternatives to be considered in the Omnibus Amendment based on comments received. The Council will then receive a presentation by a New England Council official regarding its Essential Fish Habitat (EFH) Omnibus Amendment and potential impact on Mid-Atlantic Fisheries. The Council will receive a presentation by Rutgers University Scientists regarding "Developing Ecological Indicators for Spatial Fisheries Management" and a presentation by a NMFS' official regarding its Marine Debris Program. The Council will then hear Committee Reports and conduct any continuing and new business.

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: May 19, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E9-12027 Filed 5-21-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet June 9, 2009, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW.,

Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda:

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Opening remarks by Bureau of Industry and Security.
4. Export Enforcement update.
5. Regulations update.
6. Working group reports.
7. Automated Export System (AES) update.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at Yspringer@bis.doc.gov no later than June 2, 2009.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 23, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section 10(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

Dated: May 18, 2009.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E9-12025 Filed 5-21-09; 8:45 am]

BILLING CODE 3510-JT-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must Be Received on or Before: 6/22/2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION OR TO SUBMIT

COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.
2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

NSN: 7530-01-346-4849—Pad, Writing Paper (Yellow 3 x 5 Note).

NSN: 7530-01-425-4088—Pad, Writing Paper (4 x 5 Phone Message).

NPA: Assoc I/t Blind & Visually Impaired & Goodwill Ind. of Greater Rochester, Rochester, NY

Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Coverage: A-List for the total Government requirement as aggregated by the General Services Administration.

NSN: 7530-01-033-8891—Paper, Copying, Xerographic Process.

NPA: Louisiana Association for the Blind, Shreveport, LA.

Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Coverage: A-list for the total Government requirement as aggregated by the General Services Administration.

Services

Service Type/Location: Food Service Attendant, Rickenbacker Reserve, Redtail Building Reserve Base, 7370 Minuteman Way, Columbus, OH.

NPA: Goodwill Columbus Outsource Solutions, Columbus, OH.

Contracting Activity: Dept of the Army, XRAW7NU USPFO Activity OH ARNG, Columbus, OH.

Service Type/Location: Base Supply Center/ Individual Equipment Element Hazmat (BSC/IEE Hazmat) Forbes Field, KS, ISPFO for Kansas, 2737 S. Kansas Avenue, Topeka, KS.

NPA: Industries for the Blind, Inc., West Allis, WI.

Contracting Activity: DOD/Department of the Air Force, Kirtland AFB, NM.

Service Type/Location: Custodial Services, Ellington Field—Houston, TX, 14555 Scholl Street, Houston, TX.

NPA: On Our Own Services, Inc., Houston, TX

Contracting Activity: Dept of the Army, XR W6bb ACA Presidio of Monterey, CA.

Service Type/Location: Vehicle Retrofitting Service.

Retrofit Facility (Prime Contract): Bremerton, WA, Skookum Contract Services, 2600 Burwell Street, Bremerton, WA.

NPA: Skookum Educational Programs, Bremerton, WA

Contracting Activity: Bureau of Customs and

Border Protection, SBI Acquisition Office, Washington, DC.

Requirement: 100% of the vehicles that overflow/exceed the capacity of Federal Prison Industries' to provide the service; designated NPA will produce 50% of the requirement of overflow of vehicles

Service Type/Location: Vehicle Retrofitting Service, Good Vocations, Inc., 5171 Eisenhower Parkway, Macon, GA.

NPA: Good Vocations, Inc., Macon, GA.

Contracting Activity: Bureau of Customs and Border and Protection, SBI Acquisition Office, Washington, DC.

Requirement: 100% of the vehicles that overflow/exceed the capacity of Federal Prison Industries' to provide the service; designated NPA will produce 50% of the requirement of overflow of vehicles.

Service Type/Location: Recycling Services, Martinsburg Computing Center, 250 Mural Drive, Kearneysville, WV.

NPA: NW Works, Inc., Winchester, VA

Contracting Activity: Internal Revenue Service, Dept of Treasury, IRS, Office of Procurement Operations, Oxon Hill, MD.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish the products to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

NSN: 7520-01-484-5262—Pen, Retractable, Transparent, Cushion Grip "VISTA."

NPA: Industries of the Blind, Inc., Greensboro, NC.

Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY
NSN: 7520-01-445-0737—File, Horizontal Desk.

NSN: 7520-01-445-0738—File, Horizontal Desk.

NSN: 7520-01-445-0740—File, Horizontal Desk.

NSN: 7520-01-445-0742—File, Horizontal Desk.

NSN: 7520-01-445-0734—File, Horizontal Desk.

NSN: 7520-01-452-1559—File, Horizontal Desk.

NPA: Occupational Development Center, Inc., Thief River Falls, MN.

Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
 NSN: 7520-01-483-8987—Presentation Sheets, "SmartChart Economy."
 NSN: 7520-01-483-8976—Presentation Sheets, "SmartChart", Refill Roll.
 NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9-11973 Filed 5-21-09; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* June 22, 2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Additions: On 3/6/2009 and 3/27/2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (74 FR 9784 and 74 FR 13413-13414, respectively) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the government.

2. The action will result in authorizing small entities to furnish the products and services to the government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN: 8415-01-568-1023—NAPE Pad, Ballistic.

NSN: 8415-01-568-1028—NAPE Pad, Ballistic.

NPA: Industries of the Blind, Inc., Greensboro, NC.

NPA: Alabama Industries for the Blind, Talladega, AL.

NPA: Susquehanna Association for the Blind and Visually Impaired, Lancaster, PA.

NPA: Lions Volunteer Blind Industries, Inc., Morristown, TN.

Contracting Activity: Dept of the Army, XR W2DF RDECOM ACQ CTR Natick, Natick, MA.

Coverage: C-list for the total requirements of the U.S. Army.

Services

Service Type/Location: Administrative Services, HUD Birmingham Field Office, 950 22nd St North, Birmingham, AL.

NPA: Tommy Nobis Enterprises, Inc., Marietta, GA.

Contracting Activity: Department of Housing and Urban Development, Chicago, IL.

Service Type/Location: Switchboard Operation, Tuskegee VA Medical Center, 2400 Hospital Road, Tuskegee, AL.

NPA: Bobby Dodd Institute, Inc., Atlanta, GA.

Contracting Activity: Department of Veterans Affairs, Augusta, GA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9-11974 Filed 5-21-09; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.
SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 22, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395-5806 or send e-mail to oir_submission@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: May 18, 2009.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for Grants under the Student Support Services Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,650.

Burden Hours: 14,025.

Abstract: The application is needed to conduct a national competition under the Student Support Services Program for program year 2009–2010. The program provides grants to institutions of higher education and combinations of institutions of higher education for projects designed to increase the retention and graduation rates of eligible students; increase the transfer rate of eligible students from two-year to four-year institutions; and foster an institutional climate supportive of the success of low-income and first generation students and individuals with disabilities through the provision of support services.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 4027. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address ICDocketMgr@ed.gov or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–12019 Filed 5–21–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Department of Energy.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Department of Energy (DOE) invites comments on the proposed information collection requests, for the Advanced Technology Vehicles Manufacturing Incentive Program, as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 21, 2009.

ADDRESSES: Comments may be mailed or hand delivered to: Lachlan Seward, Advanced Technology Vehicles Manufacturing Incentive Program, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4B–196, Washington, DC 20585–0121. Comments may also be submitted * electronically to ATVLoan@hq.doe.gov or through the Federal eRulemaking Portal at <http://www.regulations.gov>. All submissions must include the OMB Number 1910–5137.

FOR FURTHER INFORMATION CONTACT: Lachlan Seward, Advanced Technology Vehicles Manufacturing Incentive Program, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A–157, Washington, DC 20585, 202–586–8146.

SUPPLEMENTARY INFORMATION:

I. Data

This information collection request contains:

1. *OMB No.:* 1910–5137.
2. *Package Title:* Advanced Technology Vehicles Manufacturing Incentive Program; Application and Monitoring.
3. *Type of Review:* New.
4. *Purpose:* This package requests information from Applicants, Borrowers and grant recipients under DOE's Advanced Technology Vehicles Manufacturing Incentive Program. This information is used to determine eligibility for the program, to award loans and grants pursuant to the program, and to ensure compliance with the program by Borrowers and grant recipients.
5. *Respondents:* Up to 25 Applicants; up to 15 Borrowers.
6. *Estimated Number of Burden Hours:* 35,787.5 for Applicants; 10,875 for Borrowers and grant recipients.

7. *Reporting Frequency:* One time for applicants; quarterly and annually for borrowers and grant recipients.

II. Statutory Authority

Section 136 of the Energy Independence and Security Act of 2007 ("EISA"), enacted on December 19, 2007, Public Law 110–140, authorizes the Secretary of Energy ("Secretary") to make grants and direct loans to eligible applicants for projects that reequip, expand, or establish manufacturing facilities in the United States to produce qualified advanced technology vehicles, or qualifying components and also for engineering integration costs associated with such projects.

Section 129(a) of the Consolidated Security Disaster Assistance and Continuing Appropriations Act of 2009, (Pub. L. 110–329; "Continuing Resolution, 2009") appropriated \$7,510,000,000 for fiscal year 2009 for "Advanced Technology Vehicle Manufacturing Incentive Program Account" for the cost of direct loans as authorized under section 136(d) of EISA and states that commitments for direct loans using such amount must not exceed \$25,000,000,000 in total loan principle. Further, section 129(c) of the Continuing Resolution, 2009 made several substantive amendments to EISA section 136, including that, not later than 60 days after enactment of the Continuing Resolution, 2009, the Secretary will promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer section 136 of EISA, as amended by the Continuing Resolution, 2009.

Pursuant to section 129 of the Continuing Resolution, 2009 and EISA section 136, DOE promulgated an interim final rule on November 12, 2008, setting forth the basic applicant eligibility and project eligibility requirements for both the grant and the loan program. 73 FR 66729 (November 12, 2008). At present, Congress has appropriated funds through the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, for only the loan program. As such, DOE will be implementing the loan program only at this time.

III. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Issued in Washington, DC, on May 15, 2009.

Owen F. Barwell,

Deputy Chief Financial Officer.

[FR Doc. E9-11995 Filed 5-21-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[OE Docket No. EA-352]

Application to Export Electric Energy; NaturEner Tie Line, LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: NaturEner Tie Line, LLC (NaturEner) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before June 22, 2009.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-586-8008).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On May 11, 2009, DOE received an application from NaturEner for authority to transmit electric energy from the United States to Canada. NaturEner is engaged in the marketing

of electric power at wholesale from wind power generating stations located in the State of Montana. NaturEner does not own any electric transmission facilities nor does it hold a franchised service area. The electric energy which NaturEner proposes to export to Canada would be generated at wind powered generating stations (wind farms) located in the State of Montana and developed by an affiliate, NaturEner USA, LLC, a Delaware limited liability company. The electricity would be delivered to Canada using the international transmission facilities authorized by Presidential Permit No. PP-305, issued pursuant to Executive Order No. 10485, as amended, and currently under construction by the permit holder, Montana Alberta Tie Ltd. (MATL). NaturEner has acquired contractual rights to 300 MW of northbound transmission service on the MATL line and has requested an electricity export authorization with a 20-year term, the expected operating life of the wind farms from which it will acquire electric energy, and the effective term of the Transmission Service Agreements.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the NaturEner application to export electric energy to Canada should be clearly marked with Docket No. EA-352. Additional copies are to be filed directly with Nancy Murray, General Counsel, NaturEner Tie Line, LLC, 394 Pacific Avenue, Suite 300, San Francisco, CA 94111 and James B. Vasile, Davis Wright Tremaine LLP, 1919 Pennsylvania Avenue, NW., Suite 200, Washington, DC 20006. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at http://www.oe.energy.gov/permits_pending.htm, or by e-mailing

Odessa Hopkins at Odessa.hopkins@hq.doe.gov.

Issued in Washington, DC, on May 19, 2009.

Anthony J. Como,

Director, Permitting and Siting Office of Electricity Delivery and Energy Reliability.

[FR Doc. E9-11998 Filed 5-21-09; 8:45 am]

BILLING CODE 6450-01-P.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 14, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01-468-011; ER00-3621-012; ER02-23-014; ER04-249-008; ER04-318-007; ER05-34-008; ER05-35-008; ER05-36-008; ER05-37-008; ER07-1306-007; ER08-1323-002; ER96-2869-016; ER97-30-009; ER97-3561-008; ER99-1695-016.

Applicants: Dominion Energy Marketing, Inc.; Dominion Nuclear Connecticut, Inc.; Fairless Energy, LLC; Dominion Retail, Inc.; Dominion Energy Kewaunee, Inc.; Dominion Energy New England, Inc.; Dominion Energy Salem Harbor, LLC; Dominion Energy Brayton Point, LLC; Dominion Energy Manchester Street, Inc.; NedPower Mt. Mount Storm, LLC; Fowler Ridge Wind Farm LLC; State Line Energy, LLC; Kincaid Generation, LLC; Virginia Electric & Power Company; Elwood Energy LLC.

Description: Notice of Change in Status of Dominion Resources Services, Inc. on behalf of Dominion Energy Marketing, Inc. *et al.*

Filed Date: 05/06/2009.

Accession Number: 20090506-5082.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 27, 2009.

Docket Numbers: ER01-3001-021; ER03-647-012; ER01-3001-022; ER03-647-013.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits response to the requests for information set forth in the Deficiency Letter.

Filed Date: 05/04/2009.

Accession Number: 20090507-0022.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09-405-001.

Applicants: New York Independent System Operator, Inc.

Description: Report on Restitution Discussions and Request for Deferral of

Ruling of New York Independent System Operator, Inc.

Filed Date: 05/11/2009.

Accession Number: 20090511-5245.

Comment Date: 5 p.m. Eastern Time on Monday, June 1, 2009.

Docket Numbers: ER09-1123-000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits executed interconnection service agreement with Virginia Electric and Power Company.

Filed Date: 05/12/2009.

Accession Number: 20090513-0239.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 2, 2009.

Docket Numbers: ER09-1125-000.

Applicants: Macquarie Cook Power Inc.

Description: Macquarie Cook Power Inc. submits Original Sheet 1 and 2 to FERC Electric Tariff No. 2, Original Volume No. 1.

Filed Date: 05/12/2009.

Accession Number: 20090513-0238.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 2, 2009.

Docket Numbers: ER09-1128-000.

Applicants: SG Energy LLC.

Description: SG Energy LLC submits notice of cancellation of its FERC Electric Tariff, Original Volume No. 1, to be effective 5/18/09.

Filed Date: 05/12/2009.

Accession Number: 20090513-0237.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 2, 2009.

Docket Numbers: ER09-1129-000.

Applicants: Citadel Energy Products LLC.

Description: Citadel Energy Products LLC submits Notice of Cancellation of First Revised FERC Electric Tariff 1 to its market-based rate schedule.

Filed Date: 05/12/2009.

Accession Number: 20090513-0247.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 2, 2009.

Docket Numbers: ER09-1130-000.

Applicants: Southwest Power Pool Inc.

Description: Southwest Power Pool, Inc. submits executed Designee Qualification and Novation Agreement among SPP, Western Farmers Electric Cooperative, and ITC Great Plains, LLC.

Filed Date: 05/12/2009.

Accession Number: 20090513-0236.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 2, 2009.

Docket Numbers: ER09-1134-000.

Applicants: PacifiCorp.

Description: PacifiCorp submits Small Generator Interconnection Agreement Facilities Maintenance Agreement dated 4/20/09 with Klamath Geothermal 1 KL-01 etc. Original Sheet 1 to FERC

Electric Tariff 7th Rev. Volume 11 Service Agreement 565.

Filed Date: 05/13/2009.

Accession Number: 20090514-0050.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 3, 2009.

Docket Numbers: ER09-1135-000.

Applicants: Florida Power Corporation.

Description: Progress Energy Florida, Inc submits Osceola Facility Parallel Operation Agreement Rate Schedule 209, Original Sheets 1-11 with Seminole Electric Cooperative, Inc.

Filed Date: 05/13/2009.

Accession Number: 20090514-0049.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 3, 2009.

Docket Numbers: ER09-1136-000.

Applicants: ISO New England Inc. & New England Power.

Description: ISO New England Inc. et al. submits Revised Sheet 7001 et al. to FERC Electric Tariff 3 Section III—Market Rule 1—Standard Market Design Table of Contents.

Filed Date: 05/13/2009.

Accession Number: 20090514-0048.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 3, 2009.

Docket Numbers: ER09-1139-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool submits Original Service Agreement 1783 to its FERC Electric Tariff, Fifth Revised Volume 1.

Filed Date: 05/14/2009.

Accession Number: 20090514-0126.

Comment Date: 5 p.m. Eastern Time on Thursday, June 4, 2009.

Docket Numbers: ER09-1140-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool submits Original Service Agreement 1804 to its FERC Electric Tariff, Fifth Revised Volume 1 to be effective 7/13/09.

Filed Date: 05/14/2009.

Accession Number: 20090514-0125.

Comment Date: 5 p.m. Eastern Time on Thursday, June 4, 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. E9-11956 Filed 5-21-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #2**

May 14, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP99-176-199.

Applicants: Natural Gas Pipeline Co of America LLC.

Description: Natural Gas Pipeline Company of America, LLC submits two amendments to existing negotiated rate transactions under Rate Schedule FTS Service Agreement with Nicor Gas Company.

Filed Date: 05/13/2009.

Accession Number: 20090513-0283.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-245-001.
Applicants: Transcontinental Gas Pipe Line Company,
Description: Transcontinental Gas Pipe Line Company, LLC submits First Revised Sheet 461 to its FERC Gas Tariff, Fourth Revised Volume 1.

Filed Date: 05/11/2009.
Accession Number: 20090511-0109.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-275-001.
Applicants: Columbia Gulf Transmission Company.
Description: NiSource Gas Transmission & Storage submits part of its Sixth Revised Sheet 191 *et al.* to Second Revised Volume 1 to FERC Gas Tariff with a proposed effective date of 6/10/09 re Columbia Gas Transmission LLC.

Filed Date: 05/11/2009.
Accession Number: 20090512-0042.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-294-002.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission, LLC submits First Revised Sheet 327 *et al.* to its FERC Gas Tariff, Third Revised Volume 1, to be effective 6/12/09.

Filed Date: 05/12/2009.
Accession Number: 20090513-0189.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-367-001.
Applicants: MarkWest Pioneer, L.L.C.
Description: MarkWest Pioneer, LLC submits Amendment No. 1 to the negotiated rate agreement with Newfield Exploration Mid-Continent Inc.

Filed Date: 05/11/2009.
Accession Number: 20090513-0157.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-412-002.
Applicants: Williston Basin Interstate Pipeline Co.

Description: Williston Basin Interstate Pipeline Co submits Second Substitute Fifteenth Revised Sheet 724 *et al.* to Second Revised Volume 1.

Filed Date: 05/13/2009.
Accession Number: 20090514-0047.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-574-001.
Applicants: Colorado Interstate Gas Company.

Description: Colorado Interstate Gas Company submits Substitute Original Sheet 380R.02 *et al.* to its FERC Gas

Tariff, First Revised Volume 1, to be effective 6/1/09.

Filed Date: 05/12/2009.
Accession Number: 20090513-0190.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 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.,
Secretary.
[FR Doc. E9-11957 Filed 5-21-09; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

May 14, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09-553-000.
Applicants: Eastern Shore Natural Gas Company.

Description: IT Revenue Sharing Report of Eastern Shore Natural Gas Company.

Filed Date: 04/30/2009.
Accession Number: 20090430-5149.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: RP09-585-000.
Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC submits as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 403, to become effective June 10, 2009.

Filed Date: 05/11/2009.
Accession Number: 20090512-0041.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-586-000.
Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC submits their FTS Service Agreement 8899 between Columbia Gas Transmission Corp and Chesapeake Appalachia, LLC dated 9/5/08.

Filed Date: 05/12/2009.
Accession Number: 20090513-0192.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-587-000.
Applicants: Rockies Express Pipeline LLC.

Description: Petition of Rockies Express Pipeline LLC for a limited waiver of tariff provision and request for expedited action.

Filed Date: 05/12/2009.
Accession Number: 20090513-0191.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: RP09-588-000.
Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Co, LLC requests for expedited waiver of Section 20 of the General Terms and Conditions of their FERC Gas Tariff.

Filed Date: 05/13/2009.
Accession Number: 20090514-0046.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference

to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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. E9-11958 Filed 5-21-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2008-0719, FRL-8909-2]

Agency Information Collection Activities; Proposed Collection; Comment Request; Cooling Water Intake Structures at Phase III Facilities (Renewal), EPA ICR No. 2169.04, OMB Control No. 2040-0268

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request

to renew an existing approved collection. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before June 22, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OW-2008-0719 to (1) EPA online using <http://www.regulations.gov> (our preferred method), by e-mail to ow-docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Amelia Letnes, State and Regional Branch, Water Permits Division, OWM Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-5627; e-mail address: letnes.amelia@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 25, 2009 (74 FR 8527), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA did not receive any comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2008-0719, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Water Docket is 202-566-2426.

Use EPA's electronic docket and comment system at <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document. Please note that EPA's policy is that public comments, whether

submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov> as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

Title: Cooling Water Intake Structures at Phase III Facilities (Renewal).

ICR Number: EPA ICR No. 2169.04, OMB Control No. 2040-0268.

ICR Status: This ICR is currently scheduled to expire on May 31, 2009. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Section 316(b) regulation for Phase III facilities requires the collection of information from new offshore oil and gas extraction facilities which use a cooling water intake structure(s) that uses at least 25 percent of the water it withdraws for cooling purposes, and have design intake flows greater than 2 MGD. Section 316(b) of the Clean Water Act (CWA) requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of cooling water intake structure(s) at that facility reflect the best technology available for minimizing adverse environmental impact. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance to cooling water intake structures) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The rule contains requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new offshore oil and gas extraction facilities. These requirements seek to establish the best technology available for minimizing adverse environmental

impact associated with the use of cooling water intake structure(s).

Burden Statement: The annual average reporting and recordkeeping burden for the existing collection of information by facilities responding to the Section 316(b) Phase III rule is estimated to be 921 hours per facility respondent (*i.e.*, an annual average of 34,080 hours of burden divided among an annual average of 37 facilities). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate for the existing ICR, which is only briefly summarized here:

Estimated total number of potential respondents: 37 facilities.

Frequency of response: Every five years, ongoing.

Estimated total average number of responses for each respondent: 4.2.

Estimated total annual burden hours: 34,080 hours.

Estimated total annual costs: \$2,433,612. This includes an estimated labor burden cost of \$1,836,559 and an estimated cost of \$597,053 for capital investment or operations and maintenance.

Change in the Estimates: This ICR estimates an annual average respondent burden of 34,080 hours, which represents a 3-fold increase (22,842 hours) in burden currently identified in the OMB Inventory of Approved ICR Burdens. The change in burden results mainly from the shift from the approval period to the permit implementation and renewal period of the Section 316(b) Phase III rule. Because NPDES permits are issued every five years, this ICR covers the last two years of the initial permit approval period (*i.e.*, years four and five after promulgation) and the first year of the renewal period (*i.e.*, year six after promulgation). In this first year of the renewal period facilities will be applying for a permit for the first

time or re-applying for permit coverage that was obtained during the three years covered by the previous ICR. The activities to renew an NPDES permit are assumed to be less burdensome than those for issuing a permit for the first time.

Dated: May 18, 2009.

John Moses,

Director, Collection Strategies Division.

[FR Doc. E9-12008 Filed 5-21-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8593-6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements

Filed ??? Through ???

Pursuant to 40 CFR 1506.9.

EIS No. 20090153, Final EIS, AFS, MT, Grizzly Vegetation and Transportation Management Project, Proposes Timber Harvest, Prescribed Burning, Road Maintenance, and Transportation Management Actions, Three Rivers Ranger District, Kootenai National Forest, Lincoln County, MT, Wait Period Ends: 06/22/2009, Contact: Kathy Mohar 406-295-4693.

EIS No. 20090154, Draft EIS, NPS, AL, Tuskegee Airmen National Historic Site, General Management Plan, Implementation, Tuskegee, AL, Comment Period Ends: 07/20/2009, Contact: Amy Wirsching 404-507-5708.

EIS No. 20090155, Draft EIS, BIA, NY, Cayuga Indian Nation of New York Conveyance of Land into Trust Project, Approval of a 125+ Acre Fee-To-Trust Property Transfer of Seven Separate Parcels located in the Village of Union Springs and Town of Springport and Montezuma in Cayuga County and the Town of Seneca Falls in Seneca County, NY, Comment Period Ends: 07/06/2009, Contact: Kurt G. Chandler 615-564-6832.

EIS No. 20090156, Draft EIS, NIH, MD, National Institutes of Health (NIH), Transport of Laboratory Personnel Potentially Exposed to Infectious Agents from Fort Detrick, Frederick, MD to the National Institutes of Health Clinical Center, Bethesda, MD, Comment Period Ends: 07/24/2009, Contact: Mark Radtke 301-451-6467.

EIS No. 20090157, Draft EIS, AFS, WY, Upper Greys Vegetation Management Project, Proposes to Conduct Timber Harvest on 362 Acres in Upper Greys River Watershed, Greys River Ranger District, Bridger-Teton National Forest, Lincoln County, WY, Comment Period Ends: 07/06/2009, Contact: Heidi Whitlach 307-886-5305.

EIS No. 20090158, Final EIS, FHW, IL, Illinois Route 29 (FAP 318) Corridor Study, Transportation Improvement from Illinois 6 to Interstate 180, Funding and US Army COE Section 404 Permit, Peoria, Marshall, Putnam and Bureau Counties, IL, Wait Period Ends: 06/22/2009, Contact: Matt Fuller 217-492-4625.

EIS No. 20090159, Draft EIS, FHW, NC, Gaston East-West Connector Project, Construction (from I-85 west Gastonia to I-485/NC 160 near the Charlotte-Douglas International Airport, Gaston and Mecklenburg Counties, NC, Comment Period Ends: 07/17/2009, Contact: John F. Sullivan 919-856-4346.

EIS No. 20090160, Draft EIS, AFS, MN, Border Project, Proposing Forest Vegetation Management and Related Transportation System Activities, LaCroix Ranger District, Superior National Forest, St. Louis County, MN, Comment Period Ends: 07/06/2009, Contact: Carol Booth 218-666-0054.

EIS No. 20090161, Draft EIS, AFS, MT, Marsh and Tarhead Allotment Management Plans, Proposes to Authorize Grazing of Livestock under 10-Year Permits, Lincoln Ranger District, Helena National Forest, Lewis and Clark County, MT, Comment Period Ends: 07/06/2009, Contact: Amber Kamps 406-362-7002.

EIS No. 20090162, Final EIS, SFW, CA, Cullinan Ranch Unit Restoration Project, Proposing a Restoration Plan for 1,500 Acres of Former Hayfield Farm Land, San Pablo Bay, Issuance of Permits and/or Approval from Section 7 Endangered Species Act and U.S. Army COE Section 404 Permit, San Pablo Bay National Wildlife Refuge, Solano and Napa Counties, CA, Wait Period Ends: 06/22/2009, Contact: Christy Smith 707-769-4200.

EIS No. 20090163, Final EIS, NPS, SD, Minuteman Missile National Historic Site, General Management Plan, Implementation, Jackson and Pennington Counties, SD, Wait Period Ends: 06/22/2009, Contact: Nick Chevance 402-661-1844.

EIS No. 20090164, Draft EIS, FRC, ME, Downeast Liquefied Natural Gas

(LNG) Project, Construction and Operation, Proposed Liquefied Natural Gas (LNG) Terminal, Natural Gas Pipeline and Associated Facilities, Washington County, ME, *Comment Period Ends: 07/06/2009, Contact: Patricia Schaub 1-866-208-3372.*

EIS No. 20090165, Final EIS, AFS, UT, Dixie National Forest Motorized Travel Plan, Implementation, Dixie National and the Teasdale portion of the Fremont River Ranger District on the Fishlake National Forest, Garfield, Iron, Kane, Piute, Washington and Wayne Counties, UT, Wait Period Ends: 06/22/2009, Contact: Andi Falsetto 435-896-9233.

EIS No. 20090166, Draft Supplement, COE, LA, Calcasieu River and Pass, Louisiana Dredged Material Management Plan, Implementation, Calcasieu Ship Channel, Port of Lake Charles, Calcasieu and Cameron Parishes, LA, Wait Period Ends: 07/06/2009, Contact: Sandra Stiles 504-862-1583.

EIS No. 20090167, Final EIS, FAA, AK, Sitka Rocky Gutierrez Airport Master Plan, Improvements to the Runway Safety Area, Taxiway, Seaplane Pullout, Approach Lighting System, and the Seawall, U.S. Army COE Section 10 and 404 Permits, NPDES Permit, AK, Wait Period Ends: 06/22/2009, Contact: Patricia Sullivan 907-271-5454.

Amended Notices

EIS No. 20090048, Draft EIS, AFS, MT, Montanore Project, Proposes to Construct a Copper and Silver Underground Mine and Associated Facilities, Including a New Transmission Line, Plan-of-Operation Permit, Kootenai National Forest, Sanders County, MT, Wait Period Ends: 07/27/2009, Contact: Bobbie Lacklen 406-283-7681. Revision to FR Notice Published 02/27/2009: Extending Comment Period from 05/28/2009 to 07/27/2009.

EIS No. 20090123, Draft EIS, FHW, MS, Greenville Connector Project, from Relocated U.S. 82 to Proposed I-69 Corridor south of Benoit, City of Greenville, Washington and Bolivar Counties, MS, Wait Period Ends: 07/06/2009, Contact: Andrew Hughes, P.E. 601-965-4217. Revision of FR Notice Published 04/24/2009: Extending Comment Period from 06/08/2009 to 07/06/2009.

Dated: May 19, 2009.

Ken Mittelholtz,
Environmental Protection Specialist, Office of Federal Activities.
[FR Doc. E9-12012 Filed 5-21-09; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8593-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202-564-7146.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 17, 2009 (74 FR 17860).

Draft EISs

EIS No. 20090054, ERP No. D-AFS-K65358-CA, Stanislaus National Forest Motorized Travel Management (17305) Plan, Implementation, Stanislaus National Forest, CA.

Summary: EPA expressed environmental concerns about adverse impacts on water quality, sensitive species and habitat. Additional information is needed on seasonal closures, monitoring, and enforcement commitments. Rating EC2.

EIS No. 20090062, ERP No. D-FRC-E05104-00, Catawba-Wateree Hydroelectric Project (FERC No. 2232), Application for Hydroelectric License, Catawba and Wateree Rivers in Burke, McDowell, Caldwell, Catawba, Alexander, Iredell, Mecklenburg, Lincoln and Gaston Counties, NC and York, Lancaster, Chester, Fairfield and Kershaw Counties, SC.

Summary: EPA expressed environmental concerns impacts to aquatic species. Rating EC1.

Final EISs

EIS No. 20090110, ERP No. F-USN-C11023-NJ, Laurelwood Housing Area, Access at Naval Weapons Station Earle, Lease Agreement, Monmouth County, NJ.

Summary: No formal comment letter was sent to the preparing agency.

Dated: May 19, 2009.

Ken Mittelholtz,
Environmental Protection Specialist, Office of Federal Activities.
[FR Doc. E9-12011 Filed 5-21-09; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF TRANSPORTATION

[FRL-8909-3]

RIN 2060-ZA15

Notice of Upcoming Joint Rulemaking To Establish Vehicle GHG Emissions and CAFE Standards

AGENCIES: Environmental Protection Agency (EPA) and Department of Transportation (DOT).

ACTION: Notice of Intent to conduct a joint rulemaking.

SUMMARY: There is a critically important need for our country to address global climate change and to reduce oil consumption. In this context, EPA and DOT currently intend to work in coordination to propose standards for control of emissions of greenhouse gases and for fuel economy, respectively. If proposed and finalized, these standards would apply to passenger cars, light-duty trucks, and medium-duty passenger vehicles (light-duty vehicles) built in model years 2012 through 2016. Together, these vehicle categories, which include passenger cars, sport utility vehicles, minivans, and pickup trucks, are responsible for almost 60 percent of all U.S. transportation-related greenhouse gas emissions. If ultimately adopted, these standards would represent a harmonized and consistent national policy pursuant to the separate statutory frameworks under which EPA and DOT operate. The approach addressed in this Notice, if ultimately adopted, is intended to allow manufacturers to build a single light-duty national fleet that would satisfy all requirements under both programs and would provide significant reductions in both greenhouse gas emissions and oil consumption.

FOR FURTHER INFORMATION CONTACT:
EPA: Christopher Lieske, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4584; fax number: 734-214-4816; e-mail address: lieske.christopher@epa.gov, or Assessment and Standards Division Hotline; telephone number (734) 214-

4636; e-mail address: asinfo@epa.gov. DOT/NHTSA: Julie Abraham, Office of Rulemaking, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-1455.

SUPPLEMENTARY INFORMATION:

I. Introduction

This joint Notice announces plans by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), on behalf of the Department of Transportation, to propose a strong and coordinated Federal greenhouse gas and fuel economy program for passenger cars, light-duty trucks, and medium-duty passenger vehicles (hereafter light-duty vehicles), referred to as the National Program.¹ Both agencies seek to propose a coordinated program that can achieve important reductions of greenhouse gas (GHG) emissions and improvements in fuel economy from the light-duty vehicle part of the transportation sector, based on technology that will be commercially available and that can be incorporated at a reasonable cost. The agencies intend to propose a program that will also provide regulatory certainty for the automobile industry, while recognizing the serious current economic situation faced by this industry and many members of the public.

In the near future, EPA and NHTSA intend to initiate a joint rulemaking, with EPA proposing GHG emissions standards under the Clean Air Act (CAA), and NHTSA proposing Corporate Average Fuel Economy (CAFE) standards under EPCA, as amended by the Energy Independence and Security Act of 2007 (EISA). It is intended that this joint rulemaking proposal will reflect a carefully coordinated and harmonized approach to implementing these two statutes and will be in accordance with all substantive and procedural requirements imposed by law.

Since the 1970s, NHTSA has promulgated CAFE standards for light-duty vehicles to address our country's need to reduce oil consumption. In 2008 NHTSA proposed CAFE standards for model years (MY) 2011 through 2015. However, responding to a Presidential Memorandum of January 26, 2009, NHTSA issued CAFE standards limited to MY 2011,² and has been comprehensively reviewing how it sets

CAFE standards in the context of preparing to propose CAFE standards for MY 2012 and later model years. At the same time, EPA has been working on appropriate responses that are consistent with the decision of the Supreme Court in *Massachusetts v. EPA*³ and EPA's recent proposal to find that emissions of GHGs from new motor vehicles and motor vehicle engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.⁴ In addition, in 2005 California adopted GHG emissions standards for new light-duty vehicles. Thirteen States and the District of Columbia to date, comprising approximately 40 percent of the light-duty vehicle market, have adopted California's GHG emissions standards. In 2008, EPA denied a request by California for a waiver of preemption under the CAA for its GHG emissions standards. However, consistent with another Presidential Memorandum of January 26, 2009, EPA is currently reconsidering the prior denial of California's request.⁵ California and the States that have adopted California's standards are planning to enforce these standards if EPA grants California's request for a waiver of preemption.

In sum, one agency is responsible for a standard that focuses on emissions of GHG and the other for a standard that focuses on improving fuel economy, and there are both Federal and State administrative agencies working on standards to address similar issues. Consistent, harmonized, and streamlined requirements hold out the promise of delivering environmental and energy benefits, cost savings, and administrative efficiencies that might not be available under a less coordinated approach. The National Program the agencies intend to propose would seek to deliver on that promise.

Key elements of a harmonized and coordinated National Program the agencies intend to propose are the level and form of the standard, the available compliance mechanisms, and general implementation elements. These elements are outlined in the following sections. The agencies will continue to evaluate all of the issues relevant to developing a proposal, and will provide their evaluations for review and public comment with the upcoming NPRM. This will include analyses on a variety of relevant issues, such as the costs and benefits of the proposal (both quantified and unquantified), as well as the effects the proposal would have on the

economy, manufacturers, and consumers. The notice of proposed rulemaking the agencies intend to issue will discuss both the analyses that will have been done for the proposal as well as any plans for conducting additional analyses.

It is also important to note that GHG standards expected to be issued under section 202(a) of the CAA would become final only if EPA makes a final finding consistent with its recent proposal to find that emissions of greenhouse gases from new motor vehicles and motor vehicle engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.

The agencies also anticipate that the kind of harmonized and consistent national policy described in this Notice should be considered in developing standards for model years after 2016, in a future rulemaking.

II. Key Elements of the National Program

A. Level of the Standards

EPA and NHTSA intend to propose two separate sets of standards, each under their respective statutory authorities. EPA expects to propose a national CO₂ vehicle emissions standard under section 202(a) of the Clean Air Act. EPA currently is considering proposing standards that would, if made final, achieve on average 250 grams/mile of CO₂ in model year 2016. The standards for earlier years would begin with the 2012 model year, with a generally linear phase-in from MY 2012 through to model year 2016. NHTSA expects to propose appropriate related CAFE standards.

In developing the proposals under consideration, EPA and NHTSA have preliminarily evaluated the kinds of technologies that could be utilized by the automobile industry, as well as the associated costs for the industry and fuel savings for the consumer, the magnitude of the GHG and energy consumption reductions that may be achieved, and other factors relevant under their respective statutory authorities.⁶ With respect to

¹ NHTSA is delegated responsibility for implementing the Energy Policy and Conservation Act (EPCA) fuel economy requirements assigned to the Secretary of Transportation. 49 CFR 1.50, 501.2(a)(8).

² 74 FR 14196; March 30, 2009.

³ 549 U.S. 497 (2007).

⁴ 74 FR 18886; April 24, 2009.

⁵ 74 FR 7040; February 12, 2009.

⁶ The CAA requires EPA to establish "standards applicable to the emission of any air pollutant from new motor vehicles or new motor vehicle engines which, in the Administrator's judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." As noted above, EPA has proposed to find that GHGs emitted by new motor vehicles and new motor vehicle engines contribute to air pollution that endangers public health and welfare. Section 202(a) of the CAA further provides that standards set pursuant to it "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite

technological feasibility, during MYs 2012–2016 manufacturers are expected to go through the normal automotive business cycle of redesigning and upgrading their light-duty vehicle products (and in some cases introducing entirely new vehicles not on the market today). The proposal under consideration is expected to allow manufacturers the time needed to incorporate technology to achieve GHG reductions and improve fuel economy during the vehicle redesign process. This is an important aspect of the proposal under consideration, as it would avoid the much higher costs that would occur if manufacturers needed to add or change technology at times other than these scheduled redesigns. This time period would also provide manufacturers the opportunity to plan for compliance using a multi-year time frame, again in accord with normal business practice. Over these five model years there would be an opportunity for manufacturers to evaluate almost every one of their vehicle model platforms and add technology in a cost effective way to control GHG emissions and improve fuel economy. This includes redesign of the air conditioner systems in ways that will further reduce GHG emissions.

Technical work conducted by each agency over the last several years indicates that there is a wide range of technologies available for manufacturers to consider in upgrading vehicles to reduce GHG emissions and improve fuel economy.⁷ These include improvements to the engines such as use of gasoline direct injection and downsized engines that use turbochargers to provide performance similar to that of larger engines, the use of advanced transmissions, increased use of start-stop technology, improvements in tire performance, reductions in vehicle weight, increased use of hybrid and other advanced technologies, and the

technology, giving appropriate consideration to the cost of compliance within such period.”

The EPCA requires that the CAFE standards for each model year be set at the maximum feasible level. In determining that level, NHTSA must consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. NHTSA is prohibited from considering the availability of compliance flexibilities such as the ability to earn credits for exceeding CAFE standards in setting CAFE standards. Further, NHTSA must set the MY 2011–2020 CAFE standards sufficiently high to ensure that the industry-wide average of all new passenger cars and light trucks, combined, is not less than 35 miles per gallon by MY 2020.

⁷ The close relationship between emissions of CO₂—the most prevalent greenhouse gas emitted by motor vehicles—and fuel consumption, means that the technologies to control CO₂ emissions and to improve fuel economy overlap to a great degree.

initial commercialization of electric vehicles and plug-in hybrids. Although many of these technologies are available today, the emissions reductions and fuel economy improvements under consideration for the proposal would be expected to involve more widespread use of these technologies across the fleet.

Initial evaluations by EPA and NHTSA indicate that utilization of this suite of technologies provides a strong technical basis to proceed with consideration of a proposal containing MY 2016 GHG standards that would on average achieve 250 gram/mile CO₂. If the automotive industry were to achieve this CO₂ level all through fuel economy improvements, this would equate to achieving a fleet average level of 35.5 mpg. However, it is expected that most companies would also apply some air conditioning improvements to reduce GHG emissions. This would not translate into fuel economy improvements, so on average we expect the fuel economy improvements to be somewhat below the 35.5 mpg value.⁸

The proposal under consideration would also include a harmonized CAFE standard for MY 2016. Compatible GHG and CAFE standards for earlier model years would increase from the MY 2011 CAFE standard to the MY 2016 level of the National Program.

In developing their respective proposals, EPA and NHTSA will consider many of the same issues. Given differences in their respective statutory authorities, however, the agencies anticipate there will be some important differences in the development of their proposals. For example, under a GHG standard proposed under CAA section 202(a) EPA would expect manufacturers to take advantage of the option to generate credits by reducing emissions of HFCs and CO₂ through upgrades to their air conditioner systems. EPA plans to take these reductions into account in developing a proposed GHG standard. However, EPCA does not permit NHTSA to consider air conditioning credits in developing a proposed CAFE standard for passenger cars. CO₂ emissions due to air conditioning operation are not measured by the test procedure mandated by statute for use in establishing and enforcing CAFE standards for passenger cars. As a result, improvements in the efficiency of passenger car air conditioners would not be considered as a possible control technology for purposes of CAFE.

⁸ As discussed in this section, these mile per gallon equivalents should not be considered levels of potential CAFE standards.

In addition, in developing a proposal EPA would take into consideration all of the compliance flexibilities discussed below, such as averaging, banking, and trading of credits, while NHTSA is prohibited by statute from taking such flexibilities into account in developing proposed CAFE standards. Manufacturer utilization of these flexibilities, however, would be anticipated to provide important savings in cost, promote more cost-effective GHG emissions control and justify proposing more stringent GHG standards. As a result, the agencies do not anticipate a one-to-one correspondence between the level of EPA's proposed GHG standards and NHTSA's proposed CAFE standards. Instead the CAFE standards under consideration for proposal would be somewhat lower than the mile per gallon equivalent of the corresponding GHG standard. This reflects both the specific differences in standard setting criteria, as well as the general attempt by each agency to harmonize its proposed standards in a way that allows them to achieve their respective statutory and regulatory goals. The goal of the proposal under consideration is providing regulatory compatibility that allows auto manufacturers to build a single national light-duty fleet that would comply with both the GHG and the CAFE standards.

Preliminary analysis indicates that the proposal under consideration would result in GHG reductions and oil consumption reductions that are very significant. Preliminary analysis indicates cumulative greenhouse gas reductions of approximately 890 million metric tons (CO₂ equivalent) and fuel savings of approximately 1.8 billion barrels of oil, over the lifetime of the model years covered. Consumers would be expected to see cost savings due to the significant fuel savings. As discussed below, the agencies will conduct additional analyses of these matters.

B. Form of the Standards

Both EPA and NHTSA currently intend to propose attribute-based standards for passenger cars and light-trucks. NHTSA adopted an attribute standard based on vehicle footprint in its Reformed CAFE program for light-trucks for model years 2008–2011,⁹ and recently extended this approach to passenger cars in the CAFE rule for MY 2011.¹⁰ The agencies currently intend to propose vehicle footprint as the attribute for the GHG and CAFE

⁹ 71 FR 17566; April 6, 2006.

¹⁰ 74 FR 14196; March 30, 2009.

standards, with footprint defined as a vehicle's wheelbase multiplied by its track width—in other words, the area enclosed by the points at which the wheels meet the ground. EPA and NHTSA believe initially that the footprint attribute is the most appropriate attribute on which to base the standards under consideration, as vehicle footprint correlates reasonably well with CO₂ emissions, fuel economy, and consumer choice. In addition, the final rule issued by NHTSA for MY 2011 also discusses in some detail the relationship between mass, weight, vehicle attributes like footprint, and safety.¹¹

Under a footprint-based standard, each manufacturer would have a GHG and CAFE standard unique to its fleet, with a separate standard for passenger cars and light-trucks, depending on the footprints of the vehicle models produced by that manufacturer. Generally, manufacturers of larger vehicles (*i.e.*, vehicles with larger footprints) would face less stringent standards (*i.e.*, higher CO₂ grams/mile standards and lower CAFE standards) than manufacturers of smaller vehicles. While a manufacturer's fleet average standard could be estimated throughout the model year based on projected sales volume of its vehicle fleet, the standard of compliance would be based on the final model year sales figures. A manufacturer's calculation of fleet average emissions at the end of the model year would be based on the sales-weighted average emissions of each model in its fleet.

EPA and NHTSA currently intend to propose separate footprint-based standards, or curves, for passenger cars and light-trucks. In designing the footprint-based standards, EPA and NHTSA intend to work together to build upon the footprint standard curves used in the CAFE rule for MY 2011,¹² and to consider proposing changes to the shape of the curve based on, among other things, concerns about the steepness of the slope. EPA and NHTSA intend to consider, among other things, an approach that would generally flatten the passenger car curve, more in line with the shape of the truck curve for the MY 2011 CAFE standard.

C. Program Flexibilities for Achieving Compliance

As noted above, EPA and NHTSA expect to propose standards that are intended to provide compliance flexibility to manufacturers, especially in the early years of the program. This

flexibility would be expected to provide sufficient lead time to make necessary technological improvements and additions, and reduce the overall cost of the program without compromising overall environmental and fuel economy objectives. The broad goal of harmonizing the two agencies' standards would include preserving manufacturer flexibilities in meeting the standards. The following section provides an overview of flexibility provisions the agencies are contemplating in developing the program.

1. CO₂/CAFE Credits Earned Based on Fleet Average Performance

EPA and NHTSA currently intend to propose that the fleet average standards that would apply to a manufacturer's car and truck fleets would be based on the applicable attribute-based curves. At the end of each model year, when sales of the model year are complete, a sales-weighted fleet average would be calculated for each averaging set (cars and trucks). Under this approach, a manufacturer's car and/or truck fleet that achieves a fleet average CO₂/CAFE level better than the standard would earn credits. Conversely, if the fleet average CO₂/CAFE level does not meet the standard the fleet would generate debits (also referred to as a deficit or negative credits).

Under the program being considered for proposal, a manufacturer whose fleet generates credits in a given model year would have several options for using those credits, including credit carry-back, credit carry-forward, credit transfers, and credit trading. These provisions exist in the MY 2011 CAFE program per EPCA, and similar provisions are part of EPA's Tier 2 program for light duty vehicles' emissions of criteria pollutants (as well as numerous other standards issued by EPA under section 202 of the CAA). It is expected that, under the proposal being considered, that the manufacturer would be able to carry-back credits to offset any deficit that had accrued in a prior model year and was subsequently carried over to the current model year. EPCA restricts the carry-back of CAFE credits to three years and EPA is currently contemplating proposing the same limitation, in keeping with the goal of harmonizing both sets of proposed standards.

After satisfying any needs to offset pre-existing deficits within a vehicle category, remaining credits could be saved (banked) for use in future years. EPA is contemplating allowing manufacturers to use these banked credits in at least the five years after the

year in which they were generated (*i.e.*, five or more years carry-forward).

Another credit flexibility under consideration would be a manufacturer's ability to transfer credits among its vehicle fleet to achieve compliance with the standards. For example, credits earned by over-compliance with a manufacturer's car fleet average standard could be used to offset debits incurred due to that manufacturer's not meeting the truck fleet average standard in a given year. EPCA provides for this type of credit transfer with CAFE as does EPA within its Tier 2 program. EPA currently intends to propose unlimited credit transfers across a manufacturer's car-truck fleet to meet the GHG standard. EPCA, however, limits the amount of credits that may be transferred, and also prohibits the use of transferred credits to meet the statutory minimum for the domestic car fleet standard. These and other limits in EPCA would continue to apply to the determination of compliance with the CAFE standard.

Finally, proposals under consideration would allow accumulated credits to be traded (sold) to other vehicle manufacturers. These sorts of exchanges are typically allowed under EPA's current emission credit programs, although manufacturers have seldom made such exchanges. EPCA also allows these types of credit trades, although, as with transferred credits, traded credits may not be used to meet the minimum domestic standards.

2. Air Conditioning Credits

Air conditioning systems contribute to GHG emissions through the leakage of hydrofluorocarbon refrigerants which are powerful GHG pollutants, and also by placing an additional load on the engine, which causes the engine to produce additional CO₂ emissions. EPA is considering an approach that would enable manufacturers to earn credits by reducing GHG emissions related to air conditioning systems. Under this approach, EPA would propose a test procedure and method to calculate CO₂ equivalent reductions on a gram/mile basis that could be used as credits in meeting the fleet average CO₂ standards. The approach under consideration could provide manufacturers with a highly cost-effective way to achieve a portion of GHG emissions reductions under the EPA program. EPA is also considering the possibility of allowing early air conditioning credits that could be earned through air conditioning system improvements in the years leading up to the start of the program.

¹¹ 74 FR 14196; March 30, 2009.

¹² 74 FR 14407–14409; March 30, 2009.

3. Flex-Fuel and Alternative Fuel Vehicle Credits

EPCA authorizes an incentive under the CAFE program for production of dual-fueled or flexible-fuel vehicles (FFV) and dedicated alternative fuel vehicles. FFVs are vehicles that can run both on an alternative fuel and conventional fuel. Most FFVs are E-85 vehicles, which can run on a mixture of up to 85 percent ethanol and gasoline. Dedicated alternative fuel vehicles are vehicles that run exclusively on an alternative fuel. EPCA's provisions were amended by the EISA to extend the period of availability of the FFV credits, but to begin phasing them out by annually reducing the amount of FFV credits that can be used to help achieve compliance with the CAFE standards.¹³ EPCA does not premise the availability of the FFV credits on actual use of alternative fuel. Under current law, after MY 2019, no FFV credits will be available for CAFE compliance. For dedicated alternative fuel vehicles, there are no limits or phase-out.

For the GHG program, EPA contemplates proposing to allow FFV credits in line with EISA limits only during the period from MYs 2012 to 2015. EPA will also consider allowing FFV credits beyond MY 2015 if manufacturers are able to demonstrate that the alternative fuel is actually being used in the vehicles. EPA is also considering how that demonstration could be made.

4. Temporary Lead-Time Allowance Alternative Standards

EPA is considering a temporary lead-time allowance for manufacturers whose sale of vehicles in the U.S. in a specified time period is below a specified cut-off, such as sales of 400,000 vehicles or less during a specified year, such as MY 2009 or 2010. This would limit the number of vehicles to which the flexibility could apply. The manufacturers that satisfy the threshold criteria would be able to treat a limited number of vehicles as a separate averaging fleet, which would be subject to a less stringent GHG standard.¹⁴ EPA is considering a less stringent GHG standard that would be 125 percent of

¹³EPCA provides a statutory incentive for production of FFVs by specifying that their fuel economy is determined using a special calculation procedure that results in those vehicles being assigned a higher fuel economy level than would otherwise occur. This is typically referred to as an FFV credit.

¹⁴EPCA does not permit such an allowance. Consequently, manufacturers who may be able to take advantage of a lead-time allowance under the CAA would be required to comply with the applicable CAFE standard or be subject to penalties for non-compliance.

the vehicle's otherwise applicable footprint target level. EPA envisions that this allowance would be available only during the MY 2012–2015 phase-in years of the program. Appropriate restrictions on credit use would be expected to apply in the proposal under consideration. These allowance vehicles would be expected to be averaged into the manufacturer's fleet starting no later than MY 2016.

5. Additional Potential Credit Opportunities

EPA is considering opportunities for early credits in MYs 2009–2011 through over-compliance with a baseline standard that EPA is considering. The baseline standard would be set to be equivalent, on a national level, to the California standards. Potentially, credits could be generated by over-compliance with this baseline in one of two ways—over-compliance by the fleet of vehicles sold in California and the CAA section 177 States, or over-compliance with the fleet of vehicles sold in the 50 States. EPA is also considering allowing early credits based on over-compliance with CAFE, but under the contemplated proposal only for vehicles sold in States outside of California and the CAA section 177 States, and without use of FFV credits. Were this approach adopted, the program would need to be designed to avoid double counting credits between the two approaches.

EPA is currently considering proposing additional credit opportunities to encourage the commercialization of advanced GHG/fuel economy control technology such as electric vehicles and plug-in hybrid electric vehicles. These "super credits" could take the form of a multiplier that would be applied to the number of vehicles sold such that they would count as more than one vehicle in the manufacturer's fleet average. EPA is also considering allowing such credits to be generated for years prior to MY 2012.

EPA is also considering an option for generation of credits for employing technologies that achieve GHG reductions that are not reflected on current test procedures. Examples of technologies that EPA could consider include technologies such as solar panels on hybrids, adaptive cruise control, and active aerodynamics, among other things.

D. Compliance

There are ample precedents established in previous EPA and NHTSA regulations on which to develop an effective compliance program which would achieve the energy and environmental benefits from

CAFE and motor vehicle GHG standards. EPA and NHTSA currently intend to propose a program that recognizes and replicates as closely as possible the compliance protocols associated with the existing CAA Tier 2 vehicle emission standards, and with CAFE standards. The certification, testing, reporting, and associated compliance activities could closely track current practice and thus be familiar to manufacturers. EPA already oversees testing, collects and processes test data, and performs calculations to determine compliance with both CAFE and CAA standards. In a coordinated approach, compliance mechanisms for both programs could be consistent and non-duplicative.

The general approach under consideration would allow manufacturers to satisfy the new program requirements in the same way they comply with existing CAA and CAFE requirements. Manufacturers would demonstrate compliance on a fleet-average basis at the end of each model year, allowing model-level testing to continue throughout the year as is the current practice for CAFE determinations. Although statutory authorities and flexibilities available to EPA and NHTSA differ, such a compliance program design could establish a single set of manufacturer reporting requirements and rely on a single set of underlying data, yet allow each agency to assess compliance with its respective program.

Using currently available analyses, EPA and NHTSA do not anticipate any significant noncompliance under the program being considered. However, failure to meet the standards after credit opportunities are exhausted would ultimately result in the potential for penalties under EPCA, and under the CAA as well. The CAA allows considerable discretion in assessment of penalties. Penalties under the CAA are typically determined on a vehicle-specific basis by determining the number of a manufacturer's highest emitting vehicles that caused the fleet average standard violation. This is the same mechanism used for EPA's National LEV and Tier 2 corporate average standards, and to date there have been no instances of noncompliance. EPCA penalties are specified by statute and would be assessed for the entire noncomplying fleet at a rate of \$5.50 times the number of vehicles in the fleet times the number of tenths of mpg by which the fleet average falls below the standard. In the event of a compliance action arising out of the same facts and circumstances, EPA could consider CAFE penalties

when determining appropriate remedies for the EPA case.

III. Conclusion

There is a critically important need for our country to address global climate change and to reduce oil consumption. In this context, EPA and NHTSA currently intend to work in coordination to propose standards for control of emissions of greenhouse gases and for fuel economy, respectively. The EPA and the NHTSA plan to propose a strong and coordinated Federal greenhouse gas and fuel economy program for MY 2012 through 2016 passenger cars, light-duty trucks, and medium-duty passenger vehicles, as described above. Both agencies seek to propose a coordinated program that can achieve important reductions of greenhouse gas GHG emissions and improvements in fuel economy from the light-duty vehicle part of the transportation sector, based on technology that will be commercially available and that can be incorporated at a reasonable cost.

The agencies anticipate issuing a joint proposal in the near future, and welcome robust public participation in the rulemaking process.

Dated: May 18, 2009.

Lisa P. Jackson,
Administrator, Environmental Protection Agency.

Dated: May 18, 2009.

Ray LaHood,
Secretary, Department of Transportation.
[FR Doc. E9-12009 Filed 5-21-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-New; 30-Day Notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherrette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690-5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202-395-6974.

Proposed Project: Facts for Consumers about Health IT Service Providers—OMB No. 0990-NEW—OS/Office of the National Coordinator for Health Information Technology (ONC).

Abstract: A new health information technology, the personal health record (PHR), seeks to provide consumers with the capability to directly manage their own health information. Although PHRs can exist in different formats or media (i.e., paper or electronic), the term usually refers to an online record containing an individual's personal health information. PHRs typically

include information such as health history, vaccinations, allergies, test results, and prescription information. Given the newness of the electronic PHR concept, the different ways to establish PHRs, and the sensitivity of personal health information, ONC is taking steps to establish that useful facts about PHRs and PHR privacy policy information be made available to consumers so they can make informed decisions about selecting and using PHRs. Toward this end, ONC has a project to develop an online model for PHR providers. The model will be developed to:

- Allow presentation of important PHR facts and policies to consumers,
- Allow consumers to understand and consistently compare PHR service provider policies with others, and
- Focus on the key information that may influence decisions and choices of PHR service provider.

The project includes iterative rounds of in-depth consumer testing during April-October 2009 to assess and analyze consumer understanding and input about the model. The model will be iteratively revised to design a final template that will allow PHR vendors to convey useful and understandable facts to consumers about their privacy, security, and information management policies. Testing will be conducted in six locations that cover the four geographic census regions and will include 90-minute, one-on-one, cognitive usability interviews with six to seven participants at each of six sites, for a total not to exceed 42 interviews. In addition, each participant will have been recruited through a 15-minute screening interview. The participants will be recruited according to U.S. census statistics for race/ethnicity, age, marital status, gender, and income. Also, the sample will include participants both familiar and unfamiliar with PHRs and participants who manage chronic health issues or a disease for themselves or others.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Individuals screened	84	1	15/60	21
Participants selected	42	1	90/60	63
Total				84

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E9-12023 Filed 5-21-09; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0299]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Agency Information Collection Request. 60-Day Public Comment Request.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information,

including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

Proposed Project: Adolescent Family Life Care and Prevention End of Year Report Templates (Revision) OMB No. 0990-0299, Office of Adolescent Pregnancy Programs (OAPP).

Abstract: OAPP is proposing to revise the current OMB approved Adolescent Family Life Care and Prevention End of Year Report Templates. The current OMB approval is applicable through May 31, 2009. All AFL grantees are required by their Notice of Grant Awards to submit an end of year report once per year. The current End of Year Report templates provide a degree of standardization across the AFL grantees, allowing for more complete data collection by OAPP for program assessment.

OAPP is also proposing to consolidate 0990-0300-AFL Prevention Project End of Year Report Template ICR and 0990-0299-AFL Care and Prevention End of Year Report Templates ICR. After the approval by OMB on 0990-0299 ICR, OAPP will eliminate 0990-0300. This action will reduce the redundancy across ICRs and lessen the number of burden hours reported by including both templates under one ICR (0990-0299).

The original title will be changed to Adolescent Family Life End of the Year Report Template.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
End of Year Report Templates (program and evaluation for prevention and care grants)	65	1	65	4,225

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E9-12014 Filed 5-21-09; 8:45 am]

BILLING CODE 4150-30-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees for the University of Rochester in Rochester, NY, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class

of employees for the University of Rochester in Rochester, New York, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: University of Rochester.

Location: Rochester, New York.

Job Titles and/or Job Duties:

Laboratory Technicians who worked in the University of Rochester Atomic Energy Project laboratory building.

Period of Employment: September 1, 1943 through June 19, 1945.

FOR FURTHER INFORMATION CONTACT:

Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C-46, Cincinnati, OH 45226, Telephone 513-533-6800 (this is not a toll-free

number). Information requests can also be submitted by e-mail to OCAS@CDC.GOV.

Christine M. Branche,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. E9-12007 Filed 5-21-09; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10185 and CMS-10141]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the

Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment.

Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Revision of a currently approved collection; **Title of Information Collection:** Medicare Part D Reporting Requirements and Supporting Regulations under 42 CFR 423.505; **Form Number:** CMS-10185 (OMB#: 0938-0992); **Use:** Title I, Part 423, § 423.514 describes CMS' regulatory authority to establish requirements for Part D sponsors. It is noted that each Part D plan sponsor must have an effective procedure to develop, compile, evaluate, and report to CMS, its enrollees, and the general public, at the times and in the manner that CMS requires, statistics in the following areas: (1) The cost of its operations; (2) The availability of utilization of its services; (3) The availability, accessibility; and acceptability of its services; (4) Information demonstrating that the Part D plan sponsor has a fiscally sound operation; and (5) other matters that CMS may require. Subsection 423.505 of the Medicare Prescription Drug Modernization and Modernization Act establishes as a contract provision that Part D Sponsors must comply with the reporting requirements for submitting drug claims and related information to CMS. Data collected via Medicare Part D Reporting Requirements will be an integral resource for oversight, monitoring, compliance and auditing activities necessary to ensure quality provision of the Medicare Prescription Drug Benefit to beneficiaries. Please see the supporting documentation, "Revisions to 2nd Draft of CY 2010 Part D Reporting Requirements" document to view a list of current changes. **Frequency:** Reporting—yearly, quarterly and semi-annually; **Affected Public:** Business or other for-profit; **Number of**

Respondents: 4,526; **Total Annual Responses:** 380,184; **Total Annual Hours:** 157,450. (For policy questions regarding this collection contact Alice Lee-Martin at 410-786-4578. For all other issues call 410-786-1103.)

2. Type of Information Collection Request: Extension of a currently approved collection; **Title of Information Collection:** Medicare Prescription Drug Benefit Plan Program; **Use:** Part D plans use the information discussed to comply with the eligibility and associated Part D participating requirements. CMS will use this information to approve contract applications, monitor compliance with contract requirements, make proper payment to plans, and to ensure that correct information is disclosed to enrollees, both potential and current enrollees. **Form Number:** CMS-10141 (OMB#: 0938-0964); **Frequency:** Reporting—quarterly, semi-annually and yearly; **Affected Public:** Business or other for-profits and Individuals or households; **Number of Respondents:** 19,937,772; **Total Annual Responses:** 38,152,764; **Total Annual Hours:** 34,730,676. (For policy questions regarding this collection contact Eugenia Mattison-Gibson at 410-786-2564. For all other issues call 410-786-1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov, or call the Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on June 22, 2009: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-6974, E-mail: OIRA_submission@omb.eop.gov.

Dated: May 15, 2009

Michelle Shortt,

*Director, Regulations Development Group,
Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E9-11939 Filed 5-21-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2008-E-0307]

Determination of Regulatory Review Period for Purposes of Patent Extension; INTELENCE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for INTELENCE and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993-0002, 301-796-3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market

the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product INTELENCE (etravirine). INTELENCE, in combination with other antiretroviral agents, is indicated for the treatment of HIV-1 infection in treatment-experienced adult patients who have evidence of viral replication and HIV-1 strains resistant to an NNRTYI and other retroviral agents. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for INTELENCE (U.S. Patent No. 7,037,917) from Janssen Pharmaceutica, N.V., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated June 10, 2008, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of INTELENCE represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for INTELENCE is 2,235 days. Of this time, 2,050 days occurred during the testing phase of the regulatory review period, while 185 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective:* December 7, 2001. The applicant claims December 27, 2001, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 7, 2001. The applicant was notified by telephone on December 7, 2001, that they were allowed to proceed with clinical trials.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* July 18, 2007. FDA has verified the applicant's claim that the new drug application (NDA) for

INTELENCE (NDA 22-187) was initially submitted on July 18, 2007.

3. *The date the application was approved:* January 18, 2008. FDA has verified the applicant's claim that NDA 22-187 was approved on January 18, 2008.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 404 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see ADDRESSES) written or electronic comments and ask for a redetermination by July 21, 2009. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 18, 2009. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 13, 2009.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E9-12050 Filed 5-21-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS-2900-PN]

Medicare and Medicaid Programs; Application by the Community Health Accreditation Program for Continued Deeming Authority for Hospices

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice acknowledges the receipt of a deeming application from the Community Health Accreditation Program (CHAP) for continued recognition as a national accrediting organization for hospices that wish to participate in the Medicare or Medicaid programs. The statute requires that within 60 days of receipt of an organization's complete application, we publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 22, 2009.

ADDRESSES: In commenting, please refer to file code CMS-2900-PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the instructions under the "More Search Options" tab.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2900-PN, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2900-PN, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification,

commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members. Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Aviva Walker-Sicard, (410) 786-8648. Patricia Chmielewski, (410) 786-6899.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a hospice provided certain requirements are met. Sections 1861(dd)(2) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as a hospice program. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR

part 488. The regulations at 42 CFR part 418, specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for Hospice care.

Generally, in order to enter into a provider agreement with the Medicare program, a hospice must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 418 of our regulations. Thereafter, the hospice is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for deeming authority under part 488, subpart A, must provide us with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the reapproval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accrediting organizations to reapply for continued deeming authority every 6 years or as we determine.

CHAP's term of approval as a recognized accreditation program for hospices expires November 21, 2009.

II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.8(a) require that our findings concerning review and reapproval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's: Requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement

activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of CHAP's request for continued deeming authority for hospices. This notice also solicits public comment on whether CHAP's requirements meet or exceed the Medicare conditions for participation for hospices.

III. Evaluation of Deeming Authority Request

CHAP submitted all the necessary materials to enable us to make a determination concerning its request for reapproval as a deeming organization for hospices. This application was determined to be complete on March 27, 2009. Under section 1865(a)(2) of the Act and our regulations at § 488.8 (Federal review of accrediting organizations), our review and evaluation of CHAP will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of CHAP's standards for a hospice as compared with CMS' hospice conditions of participation.
- CHAP's survey process to determine the following:
 - The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
 - The comparability of CHAP's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
 - CHAP's processes and procedures for monitoring hospices found out of compliance with CHAP's program requirements. These monitoring procedures are used only when CHAP identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).
 - CHAP's capacity to report deficiencies to the surveyed facilities and respond

to the facility's plan of correction in a timely manner.

- CHAP's capacity to provide us with electronic data and reports necessary for effective validation and assessment of the organization's survey process.
- The adequacy of CHAP's staff and other resources, and its financial viability.
- CHAP's capacity to adequately fund required surveys.
- CHAP's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.
- CHAP's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Response to Public Comments and Notice Upon Completion of Evaluation

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 14, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9-12031 Filed 5-21-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1407-N]

Medicare Program; Public Meeting in Calendar Year 2009 for New Clinical Laboratory Tests Payment Determinations

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a public meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis for establishing payment amounts for a specified list of new Clinical Procedural Terminology (CPT) codes for clinical laboratory tests in calendar year (CY) 2010. The meeting provides a forum for interested parties to make oral presentations and submit written comments on the new codes that will be included in Medicare's Clinical Laboratory Fee Schedule for CY 2010, which will be effective on January 1, 2010. The development of the codes for clinical laboratory tests is largely performed by the CPT Editorial Panel and will not be further discussed at the Centers for Medicare & Medicaid Services (CMS) meeting.

DATES: *Meeting Date:* The public meeting is scheduled for Tuesday, July 14, 2009 from 9 a.m. to 2 p.m., Eastern Standard Time (E.S.T.).

Deadline for Registration of Presenters: All presenters for the public meeting must register by July 9, 2009.

Deadline for Submitting Requests for Special Accommodations: Requests for special accommodations must be received no later than 5 p.m., E.S.T. on July 9, 2009, the final day of registration.

Deadline for Submission of Written Comments: Interested parties may submit written comments on the proposed payment determinations by September 18, 2009, to the address specified in the **ADDRESSES** section of this notice.

ADDRESSES: The public meeting will be held in the main auditorium of the central building of the Centers for Medicare & Medicaid Services (CMS), 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

FOR FURTHER INFORMATION CONTACT: Glenn McGuirk, (410) 786-5723.

SUPPLEMENTARY INFORMATION:

I. Background

Section 531(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106-554) required the Secretary to establish procedures for coding and payment determinations for new clinical diagnostic laboratory tests under Part B of title XVIII of the Social Security Act (the Act) that permit public consultation in a manner consistent with the procedures established for implementing coding modifications for International Classification of Diseases (ICD-9-CM). The procedures and public meeting announced in this notice for new clinical laboratory tests are in accordance with the procedures published on November 23, 2001 in the **Federal Register** (66 FR 58743) to implement section 531(b) of BIPA.

Section 942(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) added section 1833(h)(8)(B) of the Act, which sets forth the methods for determining payment bases for new tests. Section 1833(h)(8)(A) of the Act states that new tests are any clinical diagnostic laboratory tests with respect to which a new or substantially revised health care common procedures code (HCPCS) is assigned on or after January 1, 2005 (hereinafter referred to as, "new test" or "new clinical laboratory test"). Pertinent to this notice, section 1833(h)(8)(B)(i) and (ii) of the Act requires the Secretary to make available to the public a list that includes new tests for which establishment of a payment amount is being considered for a year and, on the same day that the list is made available, to publish in the **Federal Register** a notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis for establishing payment amounts for new tests. Section 1833(h)(8)(B)(iii) of the Act requires that we convene a public meeting not less than 30 days after publication of the notice in the **Federal Register**. These requirements are codified at 42 CFR part 414, subpart G.

A newly created Current Procedural Terminology (CPT) code can either represent a refinement or modification of existing test methods, or a substantially new test method. The preliminary list of newly created CPT codes for calendar year (CY) 2010 will be published on our Web site at <http://www.cms.hhs.gov/ClinicalLabFeeSched> when this notice is published in the **Federal Register**.

Two methods are used to establish payment amounts for new tests

included in the CY 2010 Clinical Laboratory Fee Schedule. The first method, called cross-walking, is used when a new test is determined to be comparable to an existing test, multiple existing test codes, or a portion of an existing test code. The new test code is then assigned the related existing local fee schedule amounts and the related existing national limitation amount. Payment for the new test is made at the lesser of the local fee schedule amount or the national limitation amount.

The second method, called gap-filling, is used when no comparable existing test is available. When using this method, instructions are provided to each Medicare carrier or Part A and Part B Medicare Administrative Contractor (MAC) to determine a payment amount for its geographic area(s) for use in the first year. These determinations are based on the following sources of information, if available: Charges for the test and routine discounts to charges; resources required to perform the test; payment amounts determined by other payers; and charges, payment amounts, and resources required for other tests that may be comparable or otherwise relevant. The carrier-specific amounts are used to establish a national limitation amount for the following years. For each new clinical laboratory test code, a determination must be made to either cross-walk or gap-fill.

II. Format

This meeting is open to the public. The on-site check-in for visitors will be held from 8:30 a.m., E.S.T. to 9 a.m., E.S.T., followed by opening remarks. Registered persons from the public may discuss and recommend payment determinations for specific new test codes for the CY 2010 Clinical Laboratory Fee Schedule.

Oral presentations must be brief and must be accompanied by three written copies. Presenters may also make copies available for approximately 50 meeting participants. Presenters should address the following:

- New test code(s) and descriptor.
- Test purpose and method.
- Costs.
- Charges.
- Make a recommendation with rationale for one of two methods (cross-walking or gap-fill) for determining payment for new tests.

Additionally, the presenters should provide the data on which their recommendations are based. Presentations that do not address the above five items may be considered incomplete and may not be considered by CMS when making a payment determination. CMS may request

missing information following the meeting in order to prevent a recommendation from being considered incomplete.

A summary of the proposed new test codes and the payment recommendations that are presented during the public meeting will be posted on our Web site by early September 2009 and can be accessed at <http://www.cms.hhs.gov/ClinicalLabFeeSched>.

In addition, the summary will list other comments received by July 29, 2009 (15 days after the meeting). The summary will also display our proposed payment determinations, an explanation of the reasons for each determination, and the data on which the determinations are based. Interested parties may submit written comments on the proposed payment determinations by September 18, 2009, to the address specified in the ADDRESSES section of this notice. Final payment determinations will be posted on our Web site in October 2009. Each determination will include a rationale, data on which the determination is based, and responses to comments and suggestions received from the public.

After the final payment determinations have been posted on our Web site, the public may request reconsideration of the payment determinations as set forth in 42 CFR 414.509. See also (72 FR 66275 through 66280).

III. Registration Instructions

The Division of Ambulatory Services in CMS is coordinating the public meeting registration. Beginning June 15, 2009, registration may be completed online at the following Web address:

<http://www.cms.hhs.gov/ClinicalLabFeeSched>. The following information must be submitted when registering:

- Name.
- Company name.
- Address.
- Telephone number(s).
- E-mail address(es).

When registering, individuals who want to make a presentation must also specify on which new clinical laboratory test code(s) they will be presenting comments. A confirmation will be sent upon receipt of the registration. Individuals must register by the date specified in the DATES section of this notice.

IV. Security, Building, and Parking Guidelines

The meeting will be held in a Federal government building; therefore, Federal security measures are applicable. In

planning your arrival time, we recommend allowing additional time to clear security. It is suggested that you arrive at the CMS facility between 8:15 a.m and 8:30 a.m., E.S.T. so that you will be able to arrive promptly at the meeting by 9 a.m., E.S.T. Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 8:15 a.m., E.S.T. (45 minutes before the convening of the meeting).

Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel. Persons without proper identification may be denied access to the building.
- Interior and exterior inspection of vehicles (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Passing through a metal detector and inspection of items brought into the building. We note that all items brought to CMS, whether personal or for the purpose of demonstration or to support a demonstration, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a demonstration.

V. Special Accommodations

Individuals attending the meeting who are hearing or visually impaired and have special requirements, or a condition that requires special assistance, should provide the information upon registering for the meeting. The deadline for registration is listed in the DATES section of this notice.

VI. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 14, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9-12030 Filed 5-21-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Procedures Reviews, Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting for the aforementioned subcommittee:

Time and Date: 10 a.m.–5 p.m., June 9, 2009.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018. Telephone (859) 334-4611, Fax (859) 334-4619.

Status: Open to the public, but without a public oral comment period. To access by conference call dial the following information 1 (866) 659-0537, Participant Pass Code 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2009.

Purpose: The Advisory Board is charged with (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the

Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee on Procedures Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction. It will be responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Office of Compensation Analysis and Support (OCAS) and its dose reconstruction contractor.

Matters To Be Discussed: The agenda for the Subcommittee meeting includes: a discussion of proposed new versions of the computer-assisted telephone interview scripts and procedures NIOSH uses to interview claimants at the outset of the dose reconstruction process; the disposition of site-specific procedures; and, a continuation of the comment-resolution process for other dose reconstruction procedures under review by the Subcommittee.

The agenda is subject to change as priorities dictate.

This meeting is open to the public, but without a public comment period. In the event an individual wishes to provide comments, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, Mailstop E-20, Atlanta GA 30333, Telephone (513) 533-6800, Toll Free 1 (800) CDC-INFO, E-mail ocas@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 14, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9-11990 Filed 5-21-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control, Special Emphasis Panel (SEP): Prevention of Health Risk Behaviors Among Youth With Attention-Deficit/Hyperactivity Disorder (U01), FOA DD09-004

Notice of Cancellation: This notice was published in the **Federal Register** on April 30, 2009, Volume 74, Number 82, pages 19970-19971. The meeting originally scheduled to convene on May 15, 2009 has been cancelled. The meeting will be re-scheduled at a future date, to be announced.

Contact Person for More Information: Brenda Colley-Gilbert, Designated Federal Officer, CDC, 4770 Buford Highway, NE., Mailstop K92, Atlanta, GA 30341, Telephone: (770) 488-6295. 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: May 15, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9-11994 Filed 5-21-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-7014-N]

Medicare Program; Meeting of the Advisory Panel on Medicare Education, July 8, 2009

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Advisory Panel on Medicare Education (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education

strategies concerning the Medicare program. This meeting is open to the public.

DATES: *Meeting Date:* July 8, 2009 from 8:30 a.m. to 3 p.m., eastern daylight time (e.d.t.).

Deadline for Meeting Registration, Presentations and Comments: July 1, 2009, 5 p.m., e.d.t.

Deadline for Requesting Special Accommodations: June 24, 2009, 5 p.m., e.d.t.

ADDRESSES: *Meeting Location:* Hilton Washington Hotel Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036, (202) 265-6800.

Meeting Registration, Presentations, and Written Comments: Lynne Johnson, Designated Federal Official, Division of Forum and Conference Development, Office of External Affairs, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1-05-06, Baltimore, MD 21244-1850 or contact Ms. Johnson via e-mail at Lynne.Johnson@cms.hhs.gov.

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting Lynne Johnson at the address listed in the **ADDRESSES** section of this notice or by telephone at (410) 786-0090, by the date listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Lynne Johnson, (410) 786-0090. Please refer to the CMS Advisory Committees' Information Line (1-877-449-5659 toll free)/(410-786-9379 local) or the Internet (http://www.cms.hhs.gov/FACA/04_APME.asp) for additional information and updates on committee activities. Press inquiries are handled through the CMS Press Office at (202) 690-6145.

SUPPLEMENTARY INFORMATION:

Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is "in the public interest in connection with the performance of duties imposed * * * by law." Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for "activities * * * to broadly disseminate information to [M]edicare beneficiaries * * * on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options."

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1311(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on January 21, 2009 (74 FR 13442, March 27, 2009). The Panel advises and makes recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on opportunities to enhance the effectiveness of consumer education strategies concerning the Medicare program.

The goals of the Panel are as follows:

- To provide recommendations on the development and implementation of a national Medicare education program that describes benefit options under Medicare.
- To enhance the Federal government's effectiveness in informing the Medicare consumer.
- To make recommendations on how to expand outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of a national Medicare education program.
- To assemble an information base of best practices for helping consumers evaluate benefit options and build a community infrastructure for information, counseling, and assistance.

The current members of the Panel are: Gwendolyn T. Bronson, SHINE/SHIP Counselor, Massachusetts SHINE Program; Dr. Yanira Cruz, President and Chief Executive Officer, National Hispanic Council on Aging; Stephen L. Fera, Vice President, Social Mission Programs, Independence Blue Cross; Nan Kirsten-Forté, Executive Vice President, Consumer Services, WebMD; Cathy Graeff, R.Ph., M.B.A., National, Senior Vice President, Communications and Industry Relations, National Council for Prescription Drug Programs; Dr. Carmen R. Green, Director, Pain Research Division, Associate Professor, Anesthesiology, University of Michigan Health System; Dr. Jessie C. Gruman, President and Chief Executive Officer, Center for the Advancement of Health; Cindy Hounsell, J.D., President, Women's Institute for a Secure Retirement; Kathy Hughes, Vice Chairwoman, Oneida Nation; Gail Hunt, President and Chief Executive Officer, National Alliance for Caregiving; Dr. Andrew M. Kramer, Professor of Medicine, University of Colorado, Denver; Dr. Frank B. McArdle, Manager, Hewitt Research Office, Hewitt Associates; Sandy Markwood, Chief Executive Officer, National Area

Agencies on Aging; Robert L. Mollica, Consumer; David Roberts, M.P.A., Vice President, Government Relations, Healthcare Information and Management Systems Society; Julie Bodén Schmidt, Associate Vice President, Training and Technical Assistance Department, National Association of Community Health Centers; Rebecca Snead, Executive Vice President and Chief Executive Officer, National Alliance of State Pharmacy Associations.

The agenda for the July 8, 2009 meeting will include the following:

- Recap of the previous (April 22, 2009) meeting.
- Subgroup Committee Work Summary.
- Medicare Outreach and Education Strategies.
- Public Comment.
- Listening Session with CMS Leadership.
- Next Steps.

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to Lynne Johnson at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to Ms. Johnson at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Individuals requiring sign language interpretation or other special accommodations should contact Ms. Johnson at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Public Law 92-463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102-3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 14, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9-12032 Filed 5-21-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): CDC Grants for Public Health Research Dissertation, Panel H, Funding Opportunity Announcement (FOA) PAR07-231, 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) announce the aforementioned meeting.

Time and Date: 12:30 p.m.–4:30 p.m., June 11, 2009 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Sections 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 applications received in response to "CDC Grants for Public Health Research Dissertation, Panel H, FOA PAR07-231."

Contact Person for more Information: Maurine F. Goodman, M.A., M.P.H., Scientific Review Officer, Office of the Director, Office of the Chief Science Officer, CDC, 1600 Clifton Road, NE., Mailstop D72, Atlanta, GA 30333, Telephone: (404) 639-4737.

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: May 14, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9-12001 Filed 5-21-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****Office of Refugee Resettlement****Notice of a Noncompetitive Successor Award to Center for Community Development for New Americans Grant Number 90RG0068**

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice of a Noncompetitive Successor Award to Center for Community Development for New Americans Grant Number 90RG0068.

CDFA#: 93.576.

Legislative Authority: Section 412(c)(1)(A) of the Immigration and Nationality Act (INA) 8 U.S.C. 1522(c)(1)(A) authorizes the ORR Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) To assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services." In addition, section 412(a)(4)(A)(i) of the INA 8 U.S.C. 1522(a)(4)(A)(i) authorizes the Director to make loans for the purpose of carrying out this section.

Amount of Award: Remainder of current budget period February 1, 2009, through September 29, 2009, award is \$261,356; final budget period of the originally approved five-year project period through September 29, 2012; Annual Amount \$300,000.

Projected Period: February 1, 2009–September 29, 2012.

SUMMARY: In FY 2007, ORR awarded a competitive service grant for the Microenterprise Development Program grant to New York Association for New Americans, Inc. (NYANA) in New York, New York. The original project was from September 29, 2007, through September 30, 2012. NYANA served as the fiscal sponsor and legal entity of the approved project. As of February 1, 2009, NYANA has ceased operations of the Microenterprise Development

Program. NYANA has requested ORR permission for the Center for Community Development for New Americans (CCDNA) to assume the grant. CCDNA has agreed to this request. The effect of this deviation request is to transfer the grant from the initial grantee to a new grantee with all the responsibilities of managing and implementing the project for the remainder of the grant period.

Contact Information: Ronald Munia, Director, Division of Community Resettlement, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone (202) 401-4559. E-mail: Ronald.munia@acf.hhs.gov.

Dated: April 30, 2009.

Ronald Munia,

Director, Division of Community Resettlement, Office of Refugee Resettlement. [FR Doc. E9-11963 Filed 5-21-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****Office of Refugee Resettlement**

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice of a Noncompetitive Successor Award to Center for Community Development for New Americans Grant Number 90Z10057.

CDFA#: 93.576.

Legislative Authority: Section 412(c)(1)(A) of the Immigration and Nationality Act (INA) 8 U.S.C. 1522(c)(1)(A) authorizes the ORR Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) To assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance, and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services." In addition, section 412(a)(4)(A)(i) of the INA 8 U.S.C. 1522(a)(4)(A)(i) authorizes the Director to make loans for the purpose of carrying out this section.

Amount of Award: Remainder of current budget period February 1, 2009, through September 29, 2009; Award is \$286,458. Final budget period of the originally approved five-year project period through September 29, 2010; Annual Amount \$300,000.

Projected Period: February 1, 2009–September 29, 2010.

SUMMARY: In FY 2005, ORR awarded a competitive service grant for the Individual Development Account (IDA) Program grant to New York Association for New Americans, Inc. (NYANA) in New York, NY. The original project was from September 29, 2005, through September 30, 2010. NYANA served as the fiscal sponsor and legal entity of the approved project. As of February 1, 2009, NYANA has ceased operations of the Individual Development Account program. NYANA has requested ORR permission for the Center for Community Development for New Americans (CCDNA) to assume the grant. CCDNA has agreed to this request. The effect of this deviation request is to transfer the grant from the initial grantee to a new grantee with all the responsibilities of managing and implementing the project for the remainder of the grant period.

Contact Information: Ronald Munia, Director, Division of Community Resettlement, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone (202) 401-4559. E-mail: Ronald.munia@acf.hhs.gov.

Dated: April 30, 2009.

Ronald Munia,
Director, Division of Community Resettlement, Office of Refugee Resettlement.
[FR Doc. E9-11961 Filed 5-21-09; 8:45 am]
BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0664]

Food and Drug Administration Clinical Trial Requirements; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) Minneapolis District, in cosponsorship with the Society of Clinical Research Associates, Inc. (SoCRA) is announcing a public workshop entitled "FDA Clinical Trial Requirements." This 2-day public workshop is intended to provide

information about FDA clinical trial requirements to the regulated industry.

Date and Time: The public workshop will be held on Wednesday, June 10, 2009, from 8:30 a.m. to 5 p.m., and Thursday, June 11, 2009, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at the Radisson University Hotel, Suite 600, 615 Washington Ave., SE., Minneapolis, MN 55414, 612-379-8888 or 1-800-822-6757 or 888-201-1718.

Contact: Carrie Hoffman, Food and Drug Administration, 250 Marquette Ave., Minneapolis, MN 55401, 612-758-7200, FAX: 612-334-4142, e-mail: carrie.hoffman@fda.hhs.gov.

Attendees are responsible for their own accommodations. To make reservations at the Radisson University Hotel, contact the Radisson University Hotel (see *Location*).

Registration: You are encouraged to register by June 9, 2009. The SoCRA registration fees cover the cost of facilities, materials, and breaks. Seats are limited; please submit your registration as soon as possible. Course space will be filled in order of receipt of registration. Those accepted into the course will receive confirmation. Registration will close after the course is filled. Registration at the site is not guaranteed but may be possible on a space available basis on the day of the public workshop beginning at 8 a.m. The cost of registration is as follows: FDA employee (fee waived), Government employee nonmember (\$525), non-Government employee SoCRA member (\$575), non-Government employee non-SoCRA member (\$650).

If you need special accommodations due to a disability, please contact Carrie Hoffman (see *Contact*) at least 7 days in advance of the workshop.

Registration Instructions: To register, please submit a registration form with your name, affiliation, mailing address, phone, fax number, and e-mail, along with a check or money order payable to "SoCRA." Mail to: SoCRA, 530 West Butler Ave., Suite 109, Chalfont, PA 18914. To register via the Internet, go to http://www.socra.org/html/FDA_Conference.htm. (FDA has verified the Web site address, but we are not responsible for any subsequent changes to the Web site after this document publishes in the *Federal Register*.)

The registrar will also accept payment by major credit cards (VISA/MasterCard/AMEX only). For more information on the meeting, or for questions on registration, contact SoCRA at 800-762-7292 or 215-822-

8644, FAX: 215-822-8633, or e-mail: SoCRAMail@aol.com.

SUPPLEMENTARY INFORMATION: The public workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. Topics for discussion include the following: (1) What FDA Expects in a Pharmaceutical Clinical Trial; (2) Adverse Event Reporting—Science, Regulation, Error and Safety; (3) Part 11 Compliance—Electronic Signatures; (4) Informed Consent Regulations; (5) IRB Regulations and FDA Inspections; (6) Keeping Informed and Working Together; (7) FDA Conduct of Clinical Investigator Inspections; (8) Meetings with FDA: Why, When, and How; (9) Investigator Initiated Research; (10) Medical Device Aspects of Clinical Research; (11) Working with FDA's Center for Biologics Evaluation and Research; (12) The Inspection is Over—What Happens Next? Possible FDA Compliance Actions.

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393) which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), as outreach activities by Government agencies to small businesses.

Dated: May 18, 2009.

Jeffrey Shuren,
Associate Commissioner for Policy and Planning.
[FR Doc. E9-12051 Filed 5-21-09; 8:45 am]
BILLING CODE 4160-01-S

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2009-0015]

Privacy Act of 1974; United States Citizenship Immigration Services 009 Compliance Tracking and Monitoring System; System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of

Homeland Security proposes to establish a new Department of Homeland Security system of records notice titled, DHS/USCIS—009 Compliance Tracing and Monitoring System (CTMS). CTMS collects and uses information necessary to support monitoring and compliance activities for researching and managing misuse, abuse, discrimination, breach of privacy, and fraudulent use of USCIS Verification Division's verification programs, the Systematic Alien Verification for Entitlements (SAVE) and E-Verify. Additionally, the Department of Homeland Security is issuing a Notice of Proposed Rulemaking concurrent with this system of records elsewhere in the **Federal Register**. This newly established system will be included in the Department of Homeland Security's inventory of records systems.

DATES: Submit comments on or before June 22, 2009. This new system will be effective June 22, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS-2009-0015 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 703-483-2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Claire Stapleton (202-358-7777) Verification Division Privacy Branch Chief, or Donald K. Hawkins (202-272-1400), Citizenship and Immigration Services Privacy Officer, 20 Massachusetts Avenue, NW., Washington, DC 20529, U.S. Citizenship and Immigration Services, Department of Homeland Security, 470 L'Enfant Plaza East, SW., Suite 8204, Washington, DC 20529. For privacy issues please contact: Mary Ellen Callahan (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The United States Citizenship and Immigration Services (USCIS) Verification Division supports two congressionally mandated programs, the Systematic Alien Verification for Entitlements (SAVE) and E-Verify programs. E-Verify, formerly known as the Basic Pilot Program, was established under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 section 401, 8 U.S.C. 1324a note. SAVE was established under the Immigration and Control Act of 1986, Public Law 100-360 section 121(c). Congress mandated SAVE to provide government agencies with citizenship and immigration status information for use in determining an individual's eligibility for government benefits. The SAVE program allows Federal, State, and local government benefit-granting agencies, as well as licensing bureaus and credentialing organizations to confirm the immigration status of non-citizen applicants, by submitting to SAVE certain information supplied by the benefit applicant. Congress mandated E-Verify for use by employers to determine whether an employee is authorized to work in the United States at the time that he or she begins working. The E-Verify program allows participating employers to verify the employment eligibility of all newly hired employees, by submitting to E-Verify specific information supplied by the employee.

The SAVE and E-Verify programs rely on the Verification Information System (VIS) as the underlying technical infrastructure as described in the Verification Information System SORN, DHS-USCIS-004, December 11, 2008, 73 FR 75445, and VIS Privacy Impact Assessments. As part of the mandate to implement the SAVE and E-Verify programs, Congress imposed various legal and operational requirements including requirements to insulate and protect the privacy and security of collected information, to prevent unauthorized disclosure of personal information, and to have safeguards against the system resulting in unlawful discrimination. In order to ensure that these requirements are met, the Verification Division created the Monitoring and Compliance (M&C) Branch which, as one might imagine, will be responsible for two distinct set of tasks: monitoring and compliance. M&C will monitor the verification transactions within VIS to identify potential cases of misuse, abuse, discrimination, breach of privacy, or fraudulent use of SAVE and E-Verify.

When M&C identifies certain defined anomalous activities through these monitoring efforts they may take additional compliance steps to verify and correct these activities. These activities are referred to as noncompliant behaviors.

The M&C Branch is developing detailed procedures for both monitoring the verification transactions in VIS and for performing compliance activities on defined non-compliant behaviors. For example, one type of behavior is associated with the misuse of SSN. For this behavior M&C will identify when a single social security number is used multiple times for employment authorization verifications through E-Verify. It would not be uncommon for a single individual to be verified several times through E-Verify as one person may hold multiple jobs or change jobs frequently, but it would be unusual for a single individual to hold 30 or 40 jobs simultaneously. M&C has developed procedures for identifying when a certain threshold number of verifications of a single SSN would be likely to indicate some type of misuse. If this threshold is met then M&C would conduct certain specific compliance activities that may involve collecting or looking at information from outside of VIS. This might include contacting or visiting an employer to research the issue and determine if there is a system problem which the Verification Division needs to correct; if there is a user misunderstanding which requires additional training for the employer, or potentially fraudulent activity which may need to be reported to law enforcement agency.

In most cases compliance activities will be undertaken based on monitoring defined behaviors in VIS. However, there are some behaviors which may not necessarily be indicated by monitoring VIS. For example, employers are required to conspicuously post notification of their participation in E-Verify to their employees. This notification provides the employees with information concerning their rights and responsibilities regarding E-Verify, including contact information. Obviously there is no information in VIS that would indicate whether an employer had actually posted these notices. Compliance activities around the non-compliant behavior of failing to post the required notices would most likely occur based on a complaint/hotline report or during a compliance visit researching another potential behavior. M&C might also identify potential non-compliant behaviors from media reports or tips for law enforcement agencies.

The management of compliance activities and storage of the supporting information will be handled by the Compliance Tracking and Management System (CTMS). The basic capabilities of CTMS include: monitoring and compliance activity tracking, data and document collection and storage, incident management tracking and incident history searching, reporting, and workflow management.

CTMS will be developed in increments. Initially, it will be based on existing and new consumer-off-the-shelf (COTS) technology products required to meet basic capabilities. This includes database and analysis technologies that are currently available in the Verification Division, and new data storage and business process workflow systems. It is anticipated that CTMS will also grow to include additional and more sophisticated analytic and information management functionality. As the system develops, USCIS will update the SORN and PIA as appropriate.

Initially, CTMS will be used to support a range of monitoring and compliance activities, which include researching and documenting the following non-compliant agency or employer categories of behaviors:

- Fraudulent use of Alien-Numbers (A-Numbers) and SSNs by E-Verify users;
- Termination of an employee because he receives a tentative non-confirmation (TNC)¹;
- Failure of an employer to notify DHS, as required by law, when an employee who receives a final non-confirmation (FNC) is not terminated;
- Verification of existing employees (as opposed to new hires);
- Verification of job applicants, rather than new employees (pre-screening);
- Selectively using E-Verify or SAVE for verifications based on foreign appearance, race/ethnicity, or citizenship status;
- Failure to post the notice informing employees of participation in E-Verify;
- Failure to use the E-Verify, consistently or at all, once registered;
- Failure of SAVE agency to initiate additional verification when necessary;
- Unauthorized searching and use of information by a SAVE agency user; and
- Fraudulent use of visas, permits, and other DHS documents by SAVE users.

¹ A tentative non-confirmation (TNC) occurs when E-Verify is unable to match the information provided by the employer with the information in DHS records. Employees can choose to contest the TNC by contacting either SSA or DHS and following the established procedures.

Monitoring

Generally speaking these categories of behaviors, as described more fully below, will usually be identified by monitoring the information in VIS. They may also be identified based on tips received from affected individuals, various law enforcement agencies, or the media. They may be the result of a Privacy Act redress request. With regard to the behavior of failing to post appropriate notice, it could be identified during a compliance visit to an employer for research on another potential non-compliant behavior. As noted above, monitoring for behaviors is complicated by the fact that not all anomalous transactions in VIS will necessarily indicate a non-compliant behavior. Thus M&C is establishing thresholds to narrow their research to find the most likely cases of non-compliant behaviors. Once M&C has established there is likely an occurrence of a non-compliant behavior M&C will extract the minimal amount of data necessary to identify possible non-compliant behavior. The minimal amount of data necessary is only data that is directly related to making a determination about the alleged non-compliant behavior. That data is entered into CTMS to conduct compliance activities.

Compliance

Compliance activities are meant to stop misuse, abuse, discrimination, breach of privacy, and fraudulent use of SAVE and E-Verify. These activities could result in a range of outcomes including correcting a SAVE or E-Verify system problem, providing additional SAVE and E-Verify user training or assistance to ensure correct use of these systems, turning off access to SAVE and E-Verify for individual users who continue to misuse the systems, or contacting law enforcement agencies in the case of suspected illegal activities.

Once the monitoring analyst determines a behavior meets the threshold the compliance analyst may begin researching the behavior. The specific research will vary depending on the behavior but generally could involve contacting or visiting the SAVE or E-Verify user (a government agency or employer respectively), to notify them that they may not be in compliance with program requirements. This notification will allow the SAVE and E-Verify user to remediate or explain the issue. In some cases, if the program user is unable to remediate or explain the issue, additional research may be conducted, including collecting supporting information from other sources beyond

VIS. This may include the collection of such information as E-Verify or SAVE created documents (such as an E-Verify Tentative Non-Confirmation (TNC) letter or referral letters), Forms I-9 and copies of supporting documents, employment offer or termination letters, information collected during interviews with SAVE and E-Verify users² related to program participation.

M&C efforts are focused on misuse of the E-Verify and SAVE program. M&C will concentrate compliance operations, such as interviews or document requests, directly on the users of these systems—the employers or government agencies, rather than on the individuals who are verified. M&C would only contact a SAVE or E-Verify subject directly when a compliance activity is based on a redress request or hotline tip. When appropriate, interviews will be conducted in a confidential manner. Information received during interviews and complaints will be kept confidential unless required to be released based on legal necessity. If a particular behavior is substantiated, the Verification Division will take appropriate steps to correct this behavior including requiring additional training, restricting access to SAVE or E-Verify, or referral to a law enforcement agency for further action. Concurrently with the publication of this SORN, the Verification Division is publishing a notice of proposed rulemaking pursuant to 5 U.S.C. 552a(k)(2), to exempt CTMS from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), and (e)(4)(H).

Information in CTMS is used to prevent misuse and illegal activities. Consequently, this SORN has a routine use for sharing with Federal, State, local, and Tribal law enforcement agencies, as well as for other standard DHS routine uses.

Consistent with DHS's information sharing mission, information stored in CTMS may be shared with other DHS components, as well as appropriate Federal, State, local, Tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to

² An E-Verify user is anyone in a company/agency enrolled with E-Verify, who actually uses E-Verify to verify other individuals, or others who have a relationship/association with E-Verify such as a designated point of contact or Memorandum of Understanding (MOU) signatory. Similarly, SAVE users are deemed to be individuals who actually use SAVE to verify other individuals, or others who have a relationship/association with SAVE. Users do not include individuals who have no relationship with SAVE or E-Verify except that they may have been verified through these programs.

know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the USCIS, Verification Division, DHS/USCIS-009 Compliance Tracking and Monitoring System of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records DHS/USCIS-009

SYSTEM NAME:

DHS/USCIS-009 Compliance Tracking and Monitoring System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Records are maintained at USCIS Headquarters in Washington, DC, in USCIS field offices, and at a contractor-owned facility in Meriden, CT. The system is accessible in a secure manner to authorized USCIS personnel via the Internet.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on four categories of individuals, any of whom may be either U.S. citizens or non-U.S. citizens: These include:

1. *Verification Subjects:* Individuals who are the subject of E-Verify or SAVE verifications and whose employer is subject to compliance activities,
2. *E-Verify or Save Program Users:* Individuals who use, are enrolled users, or have an agency or employment responsibility associated with the SAVE or E-Verify programs,
3. *Complainants:* Individuals who have contacted the Verification Division or publicly reported potential cases of misuse, abuse, discrimination, breach of privacy, and fraudulent use of USCIS Verification Division's verification programs, the Systematic Alien Verification for Entitlements (SAVE) and E-Verify, and
4. *DHS Employees:* Verification Division employees or contractors who are involved in SAVE and E-Verify monitoring and compliance activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Individual's name;
- Verification Subjects birth information;
- Verification Subjects citizenship and nationality information;
- Verification Subjects immigrant/non-immigrant information maintained by DHS or Department of State, such as arrival and departure information;
- Verification Subjects identification information such as Social Security Number, A-Number, passport and visa information;
- Verification Subjects contact information such as phone numbers, e-mail addresses, physical addresses;
- SAVE and E-Verify user contact information such as phone numbers, e-mail addresses, physical addresses;
- Analytic information derived from monitoring VIS that may indicate further compliance activities are warranted (this may include any data element contained in VIS);
- Complaint and lead information from VIS redress requests, media reports, and call center compliant reports;

- Information collected during compliance activities including, but not limited to: SAVE and E-Verify created documents such as TNC, referral or compliance letters, Form I-9 and supporting documents, employment offer and termination letters, benefit and credential applications and supporting documents, SAVE and E-Verify user interviews; and
- CTMS user information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for the maintenance of records in the system is found in 8 U.S.C. 1324a, 8 U.S.C. 1360, 42 U.S.C. 1320b-7 and the Immigration Reform and Control Act of 1986 (IRCA), Public Law (Pub. L.) 99-603, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, 110 Stat. 2168, Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104-208, 110 Stat. 3009, 18 U.S.C. 3291, and in Executive Order 12989, as amended by Executive Order 13465, June 6, 2008.

PURPOSE(S):

The purpose of this system is to analyze, collect, and manage information necessary to support monitoring and compliance activities for researching and managing misuse, abuse, discrimination, breach of privacy, and fraudulent use of USCIS Verification Division's verification programs, the Systematic Alien Verification for Entitlements (SAVE) and E-Verify.

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, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3).

Routine uses include disclosure to:

- A. To the Department of Justice (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:
 1. DHS or any component thereof;
 2. Any employee of DHS in his/her official capacity;
 3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, Tribal, or local law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in

conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the DOJ, Civil Rights Division, for the purpose of responding to matters within the DOJ's jurisdiction to include allegations of fraud and/or nationality discrimination.

I. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

RETRIEVABILITY:

This is an analytic and data management system that allows for retrievability on any data element collected. For example, records may be retrieved by a name or other unique identifiers to include: verification number, A-Number, I-94 Number, Visa Number, SSN, or by the submitting employer or agency name.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

The following proposal for retention and disposal is being prepared to be sent to the National Archives and Records Administration for approval. Records collected in the process of establishing immigration and citizenship status or employment authorization are stored and retained in the VIS Repository for ten (10) years from the date of the completion of the verification unless the records are part of an on-going investigation in which case they may be retained until completion of the investigation. This period is based on the statute of limitations for most types of misuse or fraud possible using VIS (under 18 U.S.C. 3291, the statute of limitations for false statements or misuse regarding passports, citizenship or naturalization documents).

SYSTEM MANAGER AND ADDRESS:

Chief, Verification Division, U.S. Citizenship and Immigration Services, 470-490 L'Enfant Plaza East, SW., Suite 8206, Washington, DC 20529.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, USCIS, Verification Division will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the headquarters or component's FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Lane, SW., Building 410, Mail STOP-0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization.

While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records come from several sources including: (1) Information from VIS reflecting the monitoring analysis of VIS systems users, potentially including any data fields that are allowed for VIS under the current VIS SORN, 73 FR 75445; (2) complaints, questions, and tips from SAVE and E-Verify users and individuals subject to immigration status verification provided by callers to the Verification Call Center; (3) information collected on potential cases of misuse, abuse, discrimination, breach of privacy, and fraudulent use of Verification programs from various media or law enforcement organizations to include media leads or external requests; and (4) information collected from compliance reviews undertaken by the M&C staff which have been provided by the E-Verify employer or SAVE user regarding the compliance review, which may include, but is not limited to: Form I-9 and supporting documents; benefit or credential applications and supporting documents; government documents such as SSNs, visas, DHS and Department of State issued benefit documents, and passports; employment offer and termination letters; and notes of interviews.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security plans to claim an exemption for this system from 5 U.S.C. 552a (c)(3), (d), (e)(4)(G), and (e)(4)(H) pursuant to 5 U.S.C. 552a(k)(2). These exemptions apply only to the extent that records in the system are subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

Dated: May 15, 2009.

Mary Ellen Callahan,
Chief Privacy Officer, Department of
Homeland Security.

[FR Doc. E9-11967 Filed 5-21-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

[OMB Control No. 1653-0037]

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 60-day notice of information collection for review; notice to student or exchange visitor.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), will be submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 21, 2009.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), Joseph M. Gerhart, Chief, Records Management Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Room 3138, Washington, DC 20024; (202) 732-6337.

Comments are encouraged and will be accepted for sixty days until July 21, 2009. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency Form Number, if any, and the Applicable Component of the Department of Homeland Security Sponsoring the Collection:* I-515A, U.S. Immigration and Customs Enforcement.

Affected Public Who Will Be Asked or Required to Respond, as Well as a Brief Abstract: Primary: Individuals or Households. When an academic student (F-1), vocational student (M-1), exchange visitor (J-1), or dependent (F-2, M-2 or J-2) is admitted to the United States as a nonimmigrant alien under section 101(a)(15) of the Immigration and Nationality Act (Act), he or she is required to have certain documentation. If the student or exchange visitor or dependent is missing documentation, he or she is provided with the Form I-515A, Notice to Student or Exchange Visitor. The Form I-515A provides a list of the documentation the student or exchange visitor or dependent will need to provide to the Department of Homeland Security (DHS), Student and Exchange Visitor Program (SEVP) office within 30 days of admission.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* 8,000 responses at 10 minutes (0.1667 hours) per response.

(6) *An Estimate of the Total Public Burden (In Hours) Associated with the Collection:* 1,333.6 annual burden hours

Requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be requested via e-mail to: forms.ice@dhs.gov with "ICE Form I-515A" in the subject line.

Dated: May 19, 2009.

Joseph M. Gerhart,
Chief, Records Management Branch, U.S.
Immigration and Customs Enforcement,
Department of Homeland Security.
[FR Doc. E9-11981 Filed 5-21-09; 8:45 am]
BILLING CODE 9111-28-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5281-N-37]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; HUD NEPA ARRA Section 1609(c) Reporting

AGENCY: Office of Community Planning
and Development.

ACTION: Notice of proposed information
collection.

SUMMARY: The proposed information
collection requirement described below
has been submitted to the Office of
Management and Budget (OMB) for
emergency review and approval, as
required by the Paperwork Reduction
Act. The Department is soliciting public
comments on the subject proposal.

DATES: *Comments Due Date:* May 26,
2009.

ADDRESSES: Interested persons are
invited to submit comments regarding
this proposal. Comments must be
received within seven (3) days from the
date of this Notice. Comments should
refer to the proposal by name and/or
OMB approval number and should be
sent to: Ms. Kimberly P. Nelson, HUD
Desk Officer, Office of Management and
Budget, New Executive Office Building,
Washington, DC 20502; e-mail:
Kimberly_P.Nelson@omb.eop.gov; fax:
(202) 395-6974.

FOR FURTHER INFORMATION CONTACT:
Lillian Deitzer, Reports Management
Officer, QDAM, Department of Housing
and Urban Development, 451 Seventh
Street, SW., Washington, DC 20410;
e-mail: *Lillian.L.Deitzer@hud.gov*;
telephone (202) 402-8048. This is not a
toll-free number. Copies of available
documents should be submitted to OMB
and may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This
Notice informs the public that the U.S.
Department of Housing and Urban
Development (HUD) has submitted to
OMB, for emergency processing, a
proposed information collection for the
Community Development Block Grant
Recovery (CDBG-R) program, which is
authorized under the American
Recovery and Reinvestment Act
(Recovery Act) of 2009. Title XII of

Division A of the Recovery Act
appropriated \$1 billion to carry out the
CDBG program under Title I of the
Housing and Community Development
Act of 1974 (42 U.S.C. 5301, *et seq.*) on
an expedited basis. These funds will be
distributed to grantees that received
CDBG funding in Fiscal Year (FY) 2008
in accordance with the provisions of 42
U.S.C. 5306. HUD will administer these
funds as the Community Development
Block Grant Recovery (CDBG-R) funds
and require a substantial amendment to
the grantee's 2008 annual action plan as
a condition of receiving funds. The
formulas for the allocation of CDBG-R
funds are the same as the formulas used
for the annual allocation of CDBG funds
to the states, entitlement grantees, non-
entitlement counties in Hawaii, and
Insular Areas. On February 25, 2009,
HUD announced the list of the CDBG-
R allocations, and these may be found
at [http://www.hud.gov/recovery/
cdblock.cfm](http://www.hud.gov/recovery/cdblock.cfm).

In addition, Section 1512 of the
Recovery Act requires that not later than
10 days after the end of each calendar
quarter, each recipient that received
recovery funds from a federal agency
shall submit a report to that agency that
contains: (1) The total amount of
recovery funds received from that
agency; (2) the amount of recovery
funds received that were expended or
obligated to projects or activities; and
(3) a detailed list of all projects or
activities for which recovery funds were
expended or obligated, including the
name of the project or activity; a
description of the project or activity; an
evaluation of the completion status of
the project or activity; an estimate of the
number of jobs created and the number
of jobs retained by the project or
activity; and for infrastructure
investments made by State and local
governments, the purpose, total cost,
and rationale of the agency for funding
the infrastructure investment with funds
made available under the Recovery Act
and name of the person to contact at the
agency if there are concerns with the
infrastructure investment. Not later than
30 calendar days after the end of each
calendar quarter, each agency that made
Recovery Act funds available to any
recipient shall make the information in
reports submitted publicly available by
posting the information on a Web site.

This Notice also lists the following
information:

Title of Proposal: HUD NEPA ARRA
Section 1609(c) Reporting.

Description of Information Collection:
The temporary form will be provided by
HUD to be used by grantees [i.e.,
Respondents] for the purpose of
complying with the ARRA Section

1609(c) statutory requirement. Grantees
who receive ARRA funding for projects
must report on the status and progress
of their projects and activities with
respect to compliance with the National
Environmental Policy Act (NEPA)
requirements and documentation. HUD
will consolidate and transmit the
information received from grantees to
the Council on Environmental Quality
and OMB for the Administration's
reports to the House and Senate
committees designated in the
legislation.

OMB Control Number: 2506-Pending.
Agency Form Numbers: None.

Members of the Affected Public: Not-
for-profit institutions, State, Local or
Tribal Government.

*Estimation of the total number of
hours needed to prepare the information
collection including number of
responses, frequency of responses, and
hours of responses:* An estimation of the
total number of reporting hours is 4
hours per response. The number of
respondents is 6,000. The total number
of hours requested is 12,000.

Authority: The Paperwork Reduction Act
of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 15, 2009.

Stephen A. Hill,

Acting Director, Policy and E-GOV, Officer,
Office of the Chief Information Officer.

[FR Doc. E9-12048 Filed 5-21-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5280-N-19]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant
Secretary for Community Planning and
Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies
unused, underutilized, excess, and
surplus Federal property reviewed by
HUD for suitability for possible use to
assist the homeless.

FOR FURTHER INFORMATION CONTACT:
Kathy Ezzell, Department of Housing
and Urban Development, 451 Seventh
Street, SW., Room 7266, Washington,
DC 20410; telephone (202) 708-1234;
TTY number for the hearing- and
speech-impaired (202) 708-2565 (these
telephone numbers are not toll-free), or
call the toll-free Title V information line
at 800-927-7588.

SUPPLEMENTARY INFORMATION: In
accordance with 24 CFR part 581 and
section 501 of the Stewart B. McKinney

Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B-17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other

Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: COAST GUARD: Commandant, United States Coast Guard, Attn: Melissa Evans, 1900 Half St., SW, CG-431, Washington, DC 20593-0001; (202) 475-5628; COE: Ms. Kim Shelton, Army Corps of Engineers, Office of Counsel, CECC-R, 441 G Street, NW., Washington, DC 20314; (202) 761-7696; GSA: Mr. Gordon Creed, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501-0084; NAVY: Mrs. Mary Arndt, Acting Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374-5065; (202) 685-9305; (These are not toll-free numbers).

Dated: May 14, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

**TITLE V, FEDERAL SURPLUS
PROPERTY PROGRAM FEDERAL
REGISTER REPORT FOR 05/22/2009**

Suitable/Available Properties

Building

Maryland

Federal Office Building
7550 Wisconsin Ave.
Bethesda MD 20814
Landholding AGENCY: GSA

Property Number: 54200920007

Status: Surplus

GSA Number: GMR-1101-1

Comments: 100,000 sq. ft., (sq. ft. corrected from publication on 5/8/09), 10-story, requires major renovation, limited parking

Mississippi

Tract No. 205

Internal Access Roadway

3849 Wisconsin Ave.

Vicksburg MS 39180

Landholding Agency: COE

Property Number: 31200920025

Status: Excess

Comments: 1200 sq. ft., needs repair, off-site use only

Unsuitable Properties

Building

Alabama

Former COE Field Office

Mobile AL 36606

Landholding Agency: GSA

Property Number: 54200920011

Status: Excess

GSA Number: 4-D-AL-0547

Reasons: Extensive deterioration

California

Bldgs. 22172, 62432

Marine Corps Base

Camp Pendleton CA 92055

Landholding Agency: Navy

Property Number: 77200920027

Status: Excess

Reasons: Extensive deterioration Secured Area

Florida

Bldg. SF-78

Lock & Dam

Moore Haven FL

Landholding Agency: COE

Property Number: 31200920026

Status: Unutilized

Reasons: Extensive deterioration

Georgia

5 Comfort Stations

Hartwell Lake & Dam

Hartwell GA 30643

Landholding Agency: COE

Property Number: 31200920027

Status: Unutilized

Directions: HAR-16113, 18157, 18172, 18357, 18524

Reasons: Extensive deterioration

Well House #3

JST-15732

McCormick GA

Landholding Agency: COE

Property Number: 31200920028

Status: Unutilized

Reasons: Extensive deterioration

Illinois

22 Comfort Stations

Carlyle Lake Project

Carlyle IL 62231

Landholding Agency: COE

Property Number: 31200920032

Status: Unutilized

Directions: CB561-7908, 7909, 7911, 7926, 7927, 7997, 7998, 7999, 8016, 8035, 8037, 8038, 8039, 8040, 8041, 8042, 8078, 8079, 8081, 8097, 8106, 8126

Reasons: Extensive deterioration

Illinois

8 Bldgs.

Lake Shelbyville Project
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200920033
Status: Excess
Directions: CB562-7062, 7087, 7088, 7089,
7106, 7140, 7166, 9038
Reasons: Extensive deterioration

23 Bldgs.

Rend Lake Project
Benton IL 62812
Landholding Agency: COE
Property Number: 31200920034
Status: Excess
Directions: CB639-7750, 8771, 7757, 7800,
7801, 7811, 7824, 7833, 7834, 7835, 7836,
7838, 7842, 7840, 7839, 7841, 7850, 7870,
7874, 7875, 7877, 7878, 7891
Reasons: Extensive deterioration

Iowa

8 Double Vault Privies

Rathbun Project
Appanoose IA 52544
Landholding Agency: COE
Property Number: 31200920030
Status: Excess
Directions: RTHBUN#29305, 29334, 29363,
29365, 29367, 29372, 29374, 29383
Reasons: Extensive deterioration

Double Vault Privy

Island View Park
Centerville IA 52544
Landholding Agency: COE
Property Number: 31200920031
Status: Excess
Reasons: Extensive deterioration

Kansas

Bldgs. 29016, 29017

Tuttle Creek
Riley KS 66502
Landholding Agency: COE
Property Number: 31200920035
Status: Excess
Reasons: Extensive deterioration

8 Bldgs.

Melvern Lake Project
Melvern KS 66510
Landholding Agency: COE
Property Number: 31200920036
Status: Unutilized
Directions: 05005, 23008, 40010, 40013,
60001, 60002, 81006, 81009
Reasons: Extensive deterioration

5 Bldgs.

Wilson Lake
Sylvan Grove KS 67481
Landholding Agency: COE
Property Number: 31200920037
Status: Excess
Directions: 25003, 35003, 35014, 35043,
35058
Reasons: Extensive deterioration

13 Privies

Clinton Lake Project
Lawrence KS 66049
Landholding Agency: COE
Property Number: 31200920038
Status: Excess
Reasons: Extensive deterioration

18 Privies

Milford Project Office
Junction City KS 66441
Landholding Agency: COE
Property Number: 31200920039
Status: Excess
Directions: 10016, 10017, 10018, 10019,
20009, 40011, 50006, 51001, 51002, 51003,
51022, 51023, 60006, 60007, 70003, 70004,
70005, 70006
Reasons: Extensive deterioration

5 Bldgs.

Pomona Project Office
Vassar KS
Landholding Agency: COE
Property Number: 31200920040
Status: Excess
Directions: 10001, 10015, 10016, 12008,
27005
Reasons: Extensive deterioration

10 Bldgs.

Pomona Project Office
Vassar KS 66543
Landholding Agency: COE
Property Number: 31200920041
Status: Excess
Directions: 30007, 30010, 30011, 30012,
30014, 30021, 30034, 30037, 30039, 30040
Reasons: Extensive deterioration

5 Bldgs.

Pomona Project Office
Vassar KS 66543
Landholding Agency: COE
Property Number: 31200920042
Status: Excess
Directions: 39001, 39002, 39003, 39004,
39005
Reasons: Extensive deterioration

7 Bldgs.

Pomona Project Office
Vassar KS 66543
Landholding Agency: COE
Property Number: 31200920043
Status: Excess
Directions: 42004, 42005, 42006, 42010,
42017, 42019, 50002
Reasons: Extensive deterioration

11 Bldgs.

Pomona Project Office
Vassar KS 66543
Landholding Agency: COE
Property Number: 31200920044
Status: Excess
Directions: 80005, 80006, 80007, 80008,
80021, 80023, 80024, 80031, 80033, 80034,
80035
Reasons: Extensive deterioration

Kentucky

Sewage Treatment Plant
Carr Creek Lake
Sassafras KY 41759
Landholding Agency: COE
Property Number: 31200920029
Status: Unutilized
Reasons: Extensive deterioration Floodway

Maryland

9 Bldgs.

National Naval Medical Ctr
Bethesda MD 20889
Landholding Agency: Navy
Property Number: 77200920028
Status: Unutilized
Directions: 17, 18, 21, 49, 69, 141, 146, 150,
174

Reasons: Extensive deterioration Secured Area

Missouri

10 Vault Comfort Station
Mark Twain Lake
Monroe City MO 63456
Landholding Agency: COE
Property Number: 31200920045
Status: Excess
Directions: CC302-7388, 7396, 7413, 7486,
7535, 7536, 7542, 7543, 7552, 7553
Reasons: Extensive deterioration

Picnic Shelter ES801-8343
Wappapello Lake Project
Wappapello MO 63966
Landholding Agency: COE
Property Number: 31200920046
Status: Excess
Reasons: Extensive deterioration

42 Privies

Stockton Project Office
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200920047
Status: Excess
Directions: Cedar Ridge, Crabtree Cove,
Hawker Point, High Point, Masters, Mutton
Creek, Orleans Trail, Ruark Bluff East,
Ruark Bluff West, Stockton Area
Reasons: Extensive deterioration

Bldgs. 47005, 47018

Pomme de Terre Lake
Hermitage MO 65724
Landholding Agency: COE
Property Number: 31200920048
Status: Unutilized
Reasons: Extensive deterioration

30 Bldgs.

Harry S. Truman Reservoir
Warsaw MO 65355
Landholding Agency: COE
Property Number: 31200920049
Status: Unutilized
Directions: 13012, 13014, 13015, 31005,
31006, 31007, 40005, 40006, 40007, 51008,
51009, 60005, 60006, 60007, 60008, 60009,
60010, 70004, 70005, 70006, 13013, 51006,
51007, 51010, 63009, 63011, 70003, 07010,
60016, 63030
Reasons: Extensive deterioration

Oklahoma

5 Bldgs.

Eufaula Lake
Stigler OK 74462
Landholding Agency: COE
Property Number: 31200920050
Status: Unutilized
Directions: EUFUAL-44237, 44147, 56608,
56609, 56570
Reasons: Extensive deterioration

61 Structures

Newt Graham Lock & Dam
Inola OK 74036
Landholding Agency: COE
Property Number: 31200920051
Status: Unutilized
Reasons: Extensive deterioration

19 Structures

Tenkiller Lake
Webber Falls
Gore OK 74435
Landholding Agency: COE
Property Number: 31200920052
Status: Unutilized

Reasons: Extensive deterioration
40 Structures
Tenkiller Lake
Gore OK 74435
Landholding Agency: COE
Property Number: 31200920053
Status: Unutilized
Reasons: Extensive deterioration
Oregon

Paint Locker
USCG Elect. Sup. Detmt.
Coos Bay OR
Landholding Agency: Coast Guard
Property Number: 88200920007
Status: Unutilized
Reasons: Secured Area

Virginia
3 Comfort Stations
John H. Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31200920054
Status: Unutilized
Directions: JHK-17450, 17451, 17457
Reasons: Extensive deterioration

[FR Doc. E9-11686 Filed 5-21-09; 8:45 am]
BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5300-N-06]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Lead-Based Paint Hazard Control Grant Program and Lead Hazard Reduction Demonstration Grant Program

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability on its Web site of the application information, submission deadlines, funding criteria, and other requirements for the FY2009 Lead-Based Paint Hazard Control Grant Program and Lead Hazard Reduction Demonstration Grant Program NOFA. The NOFA makes approximately \$117 million available under the Department of Housing and Urban Development Appropriations Act 2009 (Pub. L. 111-8, approved March 11, 2009). Applicants for assistance under this NOFA must address applicable requirements in HUD's Fiscal Year 2009 Notice of Funding Availability (NOFA) Policy Requirements and General Section to the HUD's FY2009 NOFAs for Discretionary Programs (General Section) published on December 29, 2008 (73 FR 79548), as amended on April 16, 2009 (74 FR 17685). Applicants should take particular note that they should follow the application submission instructions contained in

this NOFA and not use those in the General Section. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the HUD Web site at <http://www.hud.gov/lead> or <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

FOR FURTHER INFORMATION CONTACT: For information concerning the Lead-Based Paint Hazard Control Grant Program and Lead Hazard Reduction Demonstration Grant Program, contact Warren Friedman, Senior Advisor to the Director, Office of Healthy Homes and Lead Hazard Control, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8236, Washington, DC 20410-3000; telephone number 202-402-7574 (this is not a toll-free number). Persons with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service during working hours at 800-877-8339.

Dated: April 29, 2009.

Jon L. Gant,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. E9-12095 Filed 5-20-09; 11:15 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-R-2008-N0346; 60138-1265-6CCP-S3]

Final Comprehensive Conservation Plan for Pathfinder National Wildlife Refuge, Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce that the Final Comprehensive Conservation Plan (CCP) for the Pathfinder National Wildlife Refuge (NWR) is available. This CCP, prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997 and the National Environmental Policy Act of 1969, describes how the Service intends to manage the Pathfinder NWR for the next 15 years.

ADDRESSES: A copy of the CCP or Summary may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, Colorado 80228, or downloaded from <http://mountain-prairie.fws.gov/planning>.

FOR FURTHER INFORMATION CONTACT: Toni Griffin, 303-236-4378 (phone); 303-236-4792 (fax); or toni_griffin@fws.gov (e-mail).

SUPPLEMENTARY INFORMATION: Located in central Wyoming in a high plains basin near the headwaters of the Platte-Kansas Ecosystem, Pathfinder National Wildlife Refuge (NWR) lies approximately 47 miles southwest of Casper, Wyoming. The Pathfinder NWR is managed by Service staff headquartered at the Arapaho NWR near Walden, Colorado.

Pathfinder NWR was established by Executive Order 7425, August 1, 1936, which designated the Pathfinder Wildlife Refuge, "as a refuge and breeding ground for birds and other wildlife." Pathfinder NWR was established as an overlay refuge on Bureau of Reclamation lands. The Bureau of Reclamation administers lands within the Pathfinder Project boundary for North Platte Project purposes including flood control, irrigation and hydroelectric power generation. A Memorandum of Agreement specifies the management responsibilities of the U.S. Fish and Wildlife Service while preserving the autonomy of Bureau of Reclamation to manage Pathfinder Dam and Reservoir.

This final CCP identifies goals, objectives, and strategies for the management of Pathfinder NWR that emphasize management of refuge habitats for migratory birds. The CCP places high importance on obtaining baseline data for the refuge, control of invasive plant species, and utilizing partnerships to support the purposes of the refuge. It seeks to provide habitats to contribute to conservation, enhancement, and production of migratory bird species while protecting Federally listed species.

The availability of the draft CCP and Environmental Assessment (EA) was announced in the *Federal Register* on July 28, 2008 (73 FR 43777-78), and made available for a 30-day public review and comment period. The draft CCP/EA evaluated three alternatives for managing Pathfinder NWR for the next 15 years.

The preferred alternative would modify the Memorandum of Agreement between the Bureau of Reclamation and the Service to eliminate Service interest in lands (approximately 10,800 acres) that are difficult to manage and provide minimal opportunity to improve wildlife habitat. Remaining refuge areas will be evaluated and managed for the benefit of migratory bird species. Monitoring and management of invasive species on the refuge will be increased. With additional staffing, the Service

will collect baseline biological information for wildlife and habitats. Wildlife-dependent recreation opportunities will be provided and enhanced where compatible with refuge purposes. Efforts will be increased to maintain and develop partnerships that promote wildlife and habitat research and management. This will enable the Service to focus efforts on manageable lands, thereby enhancing refuge management and efficiently directing refuge resources toward accomplishing the mission of the Refuge System.

The preferred alternative was selected because it best meets the purposes and goals of the refuge, as well as the mission and goals of the National Wildlife Refuge System. The preferred alternative will benefit shore birds, migrating and nesting waterfowl, and resident wildlife. Environmental education and partnerships will result in improved wildlife-dependent recreational opportunities. Cultural and historical resources as well as Federally listed species will be protected.

We are furnishing this notice to advise other agencies and the public of the availability of the final CCP and provide information about the desired conditions for the Pathfinder NWR. Based on the review and evaluation of the information contained in the EA, the Regional Director has determined that implementation of the Final Plan does not constitute a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act. Therefore, an Environmental Impact Statement will not be prepared.

Dated: January 7, 2009.

Noreen E. Walsh,

Deputy Regional Director.

Editorial Note: This document was received in the Office of the Federal Register on May 19, 2009.

[FR Doc. E9-12002 Filed 5-21-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Fee-to-Trust Conveyance of Property for the Cayuga Indian Nation of New York, Cayuga and Seneca Counties, NY

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as the lead agency, with the Cayuga Indian Nation of New York (Nation) as a cooperating agency, intends to file a draft Environmental Impact Statement (DEIS) with the U.S. Environmental Protection Agency for the proposed acquisition into trust status of 125± acres of land that is currently held in fee status by the Nation and that the DEIS is now available for public review. The purpose of the proposed action is to create a Tribal land base and to help meet the Nation's socio-economic needs. This notice also announces a public hearing for receiving comments on the DEIS analysis.

DATES: Written comments on the DEIS must arrive by July 6, 2009. The public hearing will be held June 17, 2009, from 6 to 9 p.m., or until the last public comment is received.

ADDRESSES: You may mail, hand carry or fax written comments to Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214, Fax (615) 564-6701.

The public meeting will be held at the New York Chiropractic College, 2360 State Route 89, Seneca Falls, NY 13148.

See **SUPPLEMENTARY INFORMATION** for locations where the DEIS will be available for review and instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Kurt G. Chandler, (615) 564-6832.

SUPPLEMENTARY INFORMATION:

The Nation has requested that the BIA take into trust 125± acres of land currently held in fee in Cayuga and Seneca Counties, New York. The DEIS's currently proposed alternatives are:

(A) The Proposed Action—This alternative is the action proposed by the Nation, to take all 125± acres into trust;

(B) No Action Alternative—This alternative is for no acquisition of land into trust; and

(C) Enterprise Properties into Trust—This alternative includes acquisition of a single section of contiguous parcels in Seneca County and a single section of contiguous parcels in Cayuga County and was proposed to analyze whether there were any specific impacts related to the contiguity of the parcels.

The proposed Federal Action is to approve and adopt the DEIS, dated April 2009, as a Final Environmental Impact Statement for the purposes of compliance with the National Environmental Policy Act of 1969.

Directions for Submitting Public Comments

Please include your name, return address and the caption, "DEIS Comments, Cayuga Indian Nation of New York Trust Acquisition Project," on the first page of your written comments.

Public Availability of the DEIS

Copies of the DEIS will be available for viewing at the following locations during normal business hours:

- Lakeside Trading, 2552 Route 89, Seneca Falls, NY 13148;
- Lakeside Trading, 299 Cayuga Street, Union Springs, NY 13160;
- Seneca Falls Library, 47 Cayuga St., Seneca Falls, NY 13148; and
- Springport Free Library, 171 Cayuga St., P.O. Box 501, Union Springs, NY 13160.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address for the BIA Eastern Regional Office shown in the **ADDRESSES** section during regular business hours, 8 a.m. to 4:30 p.m. (unless otherwise shown), Monday through Friday, except holidays. Before including your address, phone number, 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.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Principal Deputy Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: March 30, 2009.

George T. Skibine,

Deputy Assistant Secretary for Policy and Economic Development.

[FR Doc. E9-11999 Filed 5-21-09; 8:45 am]

BILLING CODE 4310-W7-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[MT-066-09-1610-DR-024E]

Notice of Availability of the Record of Decision and Approved Resource Management Plan for the Butte Field Office, Montana**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) and Approved Resource Management Plan (RMP) for the Butte Field Office, Montana. The Montana State Director signed the ROD, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD and Approved RMP are available upon request from the Field Manager, Butte Field Office, BLM, 106 North Parkmont, Butte, MT 59401-3388, or via the Internet at http://www.blm.gov/mt/st/en/fo/butte_field_office.html.

FOR FURTHER INFORMATION CONTACT: Tim La Marr, Project Manager, BLM, 106 North Parkmont, Butte, MT 59701; or by calling (406) 533-7645.

SUPPLEMENTARY INFORMATION: The Butte Field Office manages about 307,000 acres of public land and about 661,000 acres of Federal mineral estate in Beaverhead, Broadwater, Deerlodge, Gallatin, Jefferson, Lewis and Clark, Park, and Silver Bow Counties in western Montana. The planning process for the RMP addressed the following five major issues: (1) How will vegetation on the BLM lands be managed to achieve healthy ecosystems while providing for a broad range of multiple uses? (2) How will the BLM lands be managed to protect wildlife and fish habitat, and to conserve and recover special status and priority species? (3) How should the BLM manage motorized public travel to meet the needs of public access and resource uses while minimizing user conflicts and impacts to air, soil, watershed, vegetation, wildlife, and other resource values? (4) How should recreation be managed to accommodate the full range of recreational uses enjoyed by the public on the BLM lands? (5) Which areas, if any, should be managed as special designations, and how should such areas be managed to protect values that warrant this status?

The Approved RMP was prepared under the authorities of the Federal

Land Policy and Management Act of 1976 (FLPMA) and the National Environmental Policy Act of 1969 (NEPA). The Approved RMP is nearly identical to the Proposed Plan (Alternative B) presented in the 2008 Proposed RMP/Final Environmental Impact Statement (EIS). Decisions in the ROD are either land use planning decisions that were protestable under the planning regulations (43 CFR subpart 1610), or implementation decisions that are now appealable under the regulations discussed below.

The BLM received six valid protest letters during the 30-day protest period provided for the Proposed RMP/Final EIS in accordance with 43 CFR 1610.5-2. The BLM Director addressed all the protests without making significant changes to the Proposed RMP; minor corrections and clarifications are included in the "Clarifications" section of the ROD.

Site-specific travel route decisions for the Helena Travel Planning Area (TPA), East Helena TPA, Lewis and Clark County NW TPA, Boulder/Jefferson City TPA, and Upper Big Hole River TPA are subject to a separate appeals process. These decisions are implementation decisions contained in the "Implementation Decisions Covered Under this Record of Decision" section of the ROD and are appealable under 43 CFR part 4, subpart E. Any party adversely affected by site-specific travel route decisions in these five TPAs may appeal within 30 days of publication of this Notice of Availability. The appeal should state the specific travel route(s), as identified in the ROD and Approved RMP, on which the decision is being appealed. The appeal must be filed with the Butte Field Manager at the above listed address. Please consult the cited regulations for further appeal requirements.

Authority: 43 U.S.C. 1712; 42 U.S.C. 4332.

Gene R. Terland,
State Director.

[FR Doc. E9-11897 Filed 5-21-09; 8:45 am]
BILLING CODE 4310-SS-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-227]

Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries**AGENCY:** United States International Trade Commission.

ACTION: Notice of public hearing and opportunity to submit comments in connection with the nineteenth report on the economic impact of the Caribbean Basin Economic Recovery Act (CBERA).

SUMMARY: Section 215 of the CBERA (19 U.S.C. 2704) requires the Commission to report biennially to the Congress and the President by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers and on the economy of the beneficiary countries. This series of biennial reports was instituted as investigation No. 332-227, *Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries*. The Commission has scheduled a public hearing for its 2009 CBERA report, covering trade during calendar years 2007 and 2008, for June 30, 2009.

DATES:

June 17, 2009: Deadline for filing requests to appear at the public hearing.
June 23, 2009: Deadline for filing pre-hearing briefs and statements.
June 30, 2009: Public hearing.
July 7, 2009: Deadline for filing post-hearing briefs and statements and all other written submissions.
September 30, 2009: Transmittal of Commission report to Congress and the President.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

FOR FURTHER INFORMATION CONTACT:

Walker Pollard (202-205-3228 or walker.pollard@usitc.gov), or James Stamps (202-205-3227 or james.stamps@usitc.gov) Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or william.gearhart@usitc.gov). The media should contact Peg O'Laughlin, Public Affairs Officer (202-205-1819 or margaret.oloughlin@usitc.gov). Hearing-impaired individuals may obtain

information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). 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.

Background: Section 215(a)(1) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)(1)), as amended, requires that the Commission submit biennial reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers, and on the economy of the beneficiary countries. Section 215(b)(1) requires that the reports include, but not be limited to, an assessment regarding:

(A) The actual effect, during the period covered by the report, of [CBERA] on the United States economy generally, as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) The probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries before the provisions of this Act terminate.

Notice of institution of the investigation was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The nineteenth report, covering calendar years 2007 and 2008, is to be submitted by September 30, 2009.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on June 30, 2009. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., June 17, 2009. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., June 23, 2009; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., July 7, 2009. All requests to appear and pre- and post-hearing briefs and statements should be filed in accordance with the requirements in the "Written Submissions" section below. In the event that, as of the close of business on June 17, 2009, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Office of the Secretary (202-205-2000) after June 17, 2009, for

information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., July 7, 2009. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Office of the Secretary (202-205-2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to publish only a public report in this investigation. Accordingly, any CBI received by the Commission in this investigation will not be published in a manner that would reveal the operations of the firm supplying the information. The report will be made available to the public on the Commission's Web site.

Issued: May 18, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-11965 Filed 5-21-09; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on April 10, 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"), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DC to Light Limited, Bray County, Wicklow, Ireland; and DGE, Inc., Rochester Hills, MI have been added as parties to this venture. Also, Huntron Inc., Mill Creek, WA; DAWTron, Inc., Roswell, GA; and Amplicon, Brighton, East Sussex, United Kingdom have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on January 21, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 26, 2009 (74 FR 8812).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-11767 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Electrical and Electronics Engineers

Notice is hereby given that, on May 1, 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"), Institute of Electrical and Electronics Engineers ("IEEE") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, IEEE has initiated 12 new standards and is revising 6 existing standards. More detail regarding these PARS can be found at <http://standards.ieee.org/standardwire/sba/03-19-09.html>.

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on February 9, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2009 (74 FR 10298).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-11768 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Warheads and Energetics Consortium

Notice is hereby given that, on April 16, 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 National Warheads and Energetics Consortium ("NWECC") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes to the nature and objectives of the venture and changes in its membership. 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. Specifically, the following parties have been added as members to this venture: Accurate Energetics Systems LLC, McEwen, TN; Action Manufacturing Company, Philadelphia, PA; Advanced Materials &

Manufacturing Technologies, LLC, Granite Bay, CA; Advanced Powder Products, Inc., Philipsburg, PA; Ahura Corporation, Wilmington, MA; Alliant TechSystems Inc., Plymouth, MN; Alliant TechSystems, Inc. Launch Systems, Brigham City, UT; American Systems Corp., Chantilly, VA; Applied Energetics, Inc., Tucson, AZ; Applied Research Associates, Albuquerque, NM; Applied Sonics Incorporated, Littleton, CO; Axsun Technologies, Inc., Naples, FL; BAE Systems, Kingsport, TN; BEC Manufacturing Corporation, Saddle Brook, NJ; Bennington Microtechnology Center, North Bennington, VT; BlastGard International, Inc., Clearwater, FL; CAR Solutions Corp., Fremont, CA; CarboMet, LLC, Morristown, NJ; Chemical Compliance Systems, Inc., Lake Hopatcong, NJ; CLogic, LLC, Avon, CT; Concurrent Technologies Corporation, Johnstown, PA; Dindl Firearms Manufacturing, Inc., Newton, NJ; Dynamic Flowform Corporation, Billerica, MA; Dynamic Systems and Research Corporation, Albuquerque, NM; Dynetics, Inc., Huntsville, AL; Eagle Picher Technologies, Inc., Joplin, MO; El Dorado Engineering, Inc., Salt Lake City, UT; Electronics Development Corporation, Columbia, MD; Energetics Materials & Products, Round Rock, TX; EnerSys Advanced Systems Inc., Horsham, PA; Engineering and Management Executives, Inc., Alexandria, VA; Erigo Technologies LLC, Enfield, NH; FED-COMM USA, Inc., Escondido, CA; Folsom Technologies International, LLC, East Greenbush, NY; Frontier Performance Polymers Corporation, Parsippany, NJ; G. Schneider & Associates, Tempe, AZ; General Atomics, San Diego, CA; General Dynamics Ordnance and Tactical Systems, Niceville, FL; Georgia Tech Applied Research Corporation, Atlanta, GA; Goodrich Sensors and Integrated Systems, Vergennes, VT; Gunger Engineering, Niceville, FL; Hi-Shear Technology Corporation, Torrance, CA; Hittite Microwave Corporation, Chelmsford, MA; Honeywell International, Inc., Defense and Space/Missiles and Munitions, Redmond, WA; 1-IT Microanalytical Inc., Albuquerque, NM; Imperial Machine & Tool Company, Columbia, NJ; Infoscitex Corporation, Waltham, MA; Kaman Aerospace Corporation, Middletown, CT; Key Technologies, Inc., Baltimore, MD; Kilgore Flares Company, LLC, Toone, TN; L-3 Fuzing & Ordnance Systems, Cincinnati, OH; Lasertel, Inc., Tucson, AZ; Latrobe Specialty Steel Company, Latrobe, PA; Lockheed Martin Company, Orlando,

FL; Logistics Engineering and Systems Integration Services, LLC, Brea, CA; Malcolm Pirnie, Inc., White Plains, NY; Material Processing and Research, Inc., Hackensack, NJ; Mecar USA Inc., Marshall, TX; Medico Industries, Inc., Wilkes-Barre, PA; Mull Sensor Systems and Actuators Inc., West Newton, MA; Missouri University of Science and Technology, Columbia, MO; Mixed Signal Integration, San Jose, CA; MSE Technology Application, Inc., Butte, MT; Mustang Technology Group, Allen, TX; Nammo Talley Inc., Mesa, AZ; Nanomaterials Discovery Corporation, Cheyenne, WY; nanoPrecision Products, Inc., El Segundo, CA; NASCEN Technology, Watertown, SD; National Technical Systems, Inc., Camden, AR; nLIGHT Photonics Corporation, Vancouver, WA; Northrop Grumman Space Technology, Redondo Beach, CA; NovaTech, Lynchburg, VA; Nuvotronics, Blacksburg, VA; Pacific Scientific Energetic Materials Company, Chandler, AZ; Pendulum Management Company, LLC, Charlestown, IN; Planning Systems, Inc., Reston, VA; Plasma Processes, Inc., Huntsville, AL; Polestar Technologies, Inc., Needham Heights, MA; Polymer Processing Institute, Newark, NJ; QuesTek Innovations, LLC, Evanston, IL; Raytheon Company, Waltham, MA; Reynolds Systems, Inc., Middletown, CA; Safety Consulting Engineers, Schaumburg, IL; SAIC, Picatinny, NJ; SAIC Systems Engineering and Advanced Technology Division, La Plata, ND; Savit Corporation, Parsippany, NJ; SciTech Services, Inc., Edgewood, MD; SMH International, LLC, Mt. Laurel, NJ; South Carolina Research Authority (SCRA), N. Charleston, SC; Special Devices, Inc., Moorpark, CA; Spectra Technologies LLC, Camden, AR; Stanley Associates, Huntsville, AL; Stevens Institute of Technology, Hoboken, NJ; STG, Inc., Reston, VA; Subsystem Technologies, Inc., Arlington, VA; Syntronics, LLC, Fredericksburg, VA; Systima Technologies, Inc., Bothell, WA; Tanenhaus and Associates, Inc., Orlando, FL; Tanner Research, Inc., Monrovia, CA; Technikon, LLC, McClellan, CA; Teledyne RISI, Tracy, CA; Texas Tech University, Lubbock, TX; The Boeing Company, St. Louis, MO; The Ex One Company, LLC, Irwin, PA; The Timken Company, Canton, OH; Thermal and Mechanical Technologies, Lafayette, LA; Touchstone Research Laboratory, LTD, Triadelphia, WV; TPL, Inc., Albuquerque, NM; Tyco Electronics, Lowell, MA; Universal Technical Resource Services, Inc., Cherry Hill, NJ; University of Florida,

Gainesville, FL; University of Mississippi, University, MS; University of Texas at Austin, Austin, TX; UXB International, Inc., Blacksburg, VA; and West Virginia University Research Corporation, Morgantown, WV.

Also, the following parties have been removed as parties to this venture: Advanced Technology & Research Corporation, Burtonsville, MD; Allied Signal Federal Manufacturing & Technologies, Kansas City, MO; Alliant Missile Products Co LLC, Hopkins, MN; Applied Ordnance Technology, Inc., Waldorf, MD; Business Plus Corporation, Denville, NJ; Bulova Technologies LLC, Lancaster, PA; CFD Research Corporation, Huntsville, AL; Climax Molybdenum Corp., Tempe, AZ; Eaton Associates, LaPorte, IN; Energetic Materials Research and Testing Center, Socorro, NM; Enig Associates, Inc., Silver Spring, MD; Fluorochem, Inc., Azusa, CA; GEO-CENTERS, Inc., Newton Centre, MA; General Dynamics Armament Systems, Burlington, VT; Highly Filled Materials Institute, Stevens Institute of Technology, Hoboken, NJ; Iowa Army Ammunitions Plant, Niddletown, IA; KVA Advanced Technologies, Inc., Carson City, NV; Loki Inc., Rolla, MO; Marconi Aerospace Defense Systems, Inc., Austin, TX; Material Processing & Research, Inc. Hoboken, NJ; N. Bruns Corporation, Alexandria, VA; Mitretek Systems, Inc., McLean, VA; Office of Research Services, Rolla, MO; Powdermet, Inc., Sun Valley, CA; Primex Technologies, Inc., St. Petersburg, FL; Quantic Industries, Inc., San Carlos, CA; Raytheon Systems Company, Tewksbury, MA; RTF Industries, Marshall, TX; SRI International, Menlo Park, CA; STREASAU Laboratory, Inc., Spooner, WI; Talley Defense Systems, Inc., Mesa, AZ; Thermo Power Corporation, Waltham, MA; Thiokol Propulsion Group, Brigham City, UT; and United Defense, LP, Armament Services Division, Minneapolis, MN.

The nature and objectives of the venture are to conduct innovative research and development, leading to technology demonstrations that further the state of the art in the area of warheads and energetics needed to develop and transition new technologies into weapon systems to support the advancement of future war fighting. NWECC is a consortium of companies and academic institutions brought together to enhance the warfighter's lethality and survivability by leveraging the nation's industrial and academic research and development bases to advance and expand our military technological superiority in critical

fields of warheads, explosives, propellants, pyrotechnics, fuze/sensors, demilitarization, enabling technologies, and insensitive munitions.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NWECC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000 NWECC Filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-11818 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program ("NSRP")

Notice is hereby given that, on April 16, 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"), National Shipbuilding Research Program ("NSRP") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The following members have changed their names: Newport News Shipbuilding and Dry Dock Co. to Northrop Grumman Shipbuilding, Inc., Newport News, VA; Northrop Grumman Ship Systems, Inc. (Ingalls Operation) to Northrop Grumman Shipbuilding, Inc.—Gulf Coast Operations (Pascagoula Shipyard) Pascagoula, MS; and Northrop Grumman Ship Systems, Inc. (Avondale Operations) to Northrop Grumman Shipbuilding, Inc.—Gulf Coast Operations (Avondale Shipyard), Avondale, LA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSRP intends

to file additional written notification disclosing all changes in membership.

On March 13, 1998, NSRP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on December 20, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 8, 2008 (73 FR 7591).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-11819 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Glass Association

Notice is hereby given that, on April 23, 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 National Glass Association ("NGA") 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 National Glass Association, McLean, VA. The nature and scope of NGA's standards development activities are the development of an Automotive Glass Replacement Uniform Labeling of Adhesives Standard ("AGRULA"). The goal of AGRULA is to provide suppliers of auto glass replacement adhesive products a system of labeling their products that is consistent with other suppliers of similar products and to provide a standardized system of labeling so that retailers are able to find the information they need in an easily recognizable manner to make all products traceable to the individual auto glass installation, regardless of

where or by whom the materials were manufactured.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-11821 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Information Card Foundation

Notice is hereby given that, on April 17, 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"), Information Card Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Google, Inc., Mountain View, CA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Information Card Foundation intends to file additional written notifications disclosing all changes in membership.

On June 2, 2008, Information Card Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to Section 6(b) of the Act on July 16, 2008 (73 FR 40883).

The last notification was filed with the Department on February 11, 2009. A notice was published in the *Federal Register* pursuant to Section 6(b) of the Act on March 13, 2009 (74 FR 10967).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-11822 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Green Corrections

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, or individuals who would like to enter an 8-month cooperative agreement to write a 45-50 page white paper exploring implementation strategies to introduce and increase awareness of environmental and conservation efforts to the field of corrections.

The Research and Evaluation Division will use the information from the white paper to collaborate with other Institute divisions (Prisons, Jails, Community Corrections, and Transition and Workforce Development) in developing and implementing training and technical assistance opportunities. The final white paper will become available to the public domain.

DATES: Applications must be received by 4 p.m. EST on Thursday, June 19, 2009.

ADDRESSES: Mailed applications must be sent to Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, call (202) 307-3106, extension 0 for pickup.

Faxed applications will not be accepted. Only electronic applications submitted via <http://www.grants.gov> will be accepted.

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC Web site at <http://www.nic.gov/cooperativeagreements>.

All technical or programmatic questions concerning this announcement should be directed to Sherry Carroll, Correctional Program Specialist, National Institute of Corrections. She can be reached by calling 1-800-995-6423 extension 0378 or by e-mail at scarroll@bop.gov.

SUPPLEMENTARY INFORMATION:

Background: NIC's interest in this project is to contribute to the

advancement of corrections by developing innovative solutions to raise the awareness of correctional administrators and to help them stay abreast of societal issues that are being raised in legislative, societal, and political forums. Additionally, NIC aims to inform correctional administrators of new legislation that has been brought before Congress addressing energy efficiency and renewable energy.

The Bureau of Justice Statistics found that per capita expenditure for each justice function increased between 1982 and 2003, with corrections having the largest per capita increase of 423% (BJS, 2003)—a growth rate higher than both law enforcement and the judiciary. With agencies competing for performance-based budgets, agencies must show they are operating effectively and efficiently.

This is the beginning of what could be a new generation of correctional facilities. Facilities may be required to enhance their infrastructures by implementing self-sustaining and environmentally friendly processes for day-to-day operations, or as backup plans during times of emergency. This also increases the potential for facilities to create green products and services that will reduce costs and improve green-collar job skills inside and outside of the facility. Reducing operational costs will allow more funding to be directed to programs designed to produce long-term, positive effects on offenders re-entering the community.

Correctional administrators have attempted to address workforce challenges by introducing skilled trades, vocational programs, apprenticeships, and college courses to offenders. Still, few job assignments are offered to offenders. Dr. Raquel Pinderhughes (2007) completed a study suggesting that there are barriers to employment for former offenders with low levels of education.

According to the American Solar Energy Society, jobs in renewable-energy and energy-efficiency industries could increase to 40 million by 2030 (MacMillan, 2008). It is believed that most firms are not prepared to handle the rapid growth of these types of jobs and will experience a shortage of qualified green-collar workers. There will also be a greater need for green-collar jobs as traditional blue-collar jobs have become less available and competition for them increases (Jones and Wyskida 2007).

New green-collar jobs require less licensing than some blue-collar jobs (Pinderhughes, 2007). This may increase the potential for former offenders to find gainful employment after their release. Green-collar skills are transferable and

can change how institutions view job assignments in their facilities, prompting practitioners to create green collar jobs within the institution and develop green-collar job readiness training programs.

Prisons Industry work programs offer another avenue to create more environmental awareness through the services and products they produce. Prison Industries have the potential to create green-collar jobs, promote awareness through producing energy-efficient and environmentally friendly products, create new programs inside correctional facilities, and lower pollution and byproduct wastes.

Progress to date: There are a number of innovative and creative solutions being developed in mainstream society to improve environmental quality through energy alternatives, material reuse, and conservation. These include the use of windmills, solar panels, biofuels, composting, recycling metals, water and other materials, crop production, and the use of hybrid vehicles. Listed below are a few examples of environmental and conservation efforts.

Many correctional facilities are recycling aluminum cans, initiating bike recycling and repair programs, and engaging in facility composting. Prison industries are recycling computers and electronics, participating in E-scrap Programs in waste management, turning wood pallets into furniture, and recycling rubber for children's playgrounds.

Organizations such as Leadership in Energy and Environmental Design (LEED) have established nationally accepted benchmarks for the design, construction, and operation of high-performance green buildings. Dr. Pinderhughes conducted research in Berkeley, California, that documented an analysis of providing high quality jobs for men and women with barriers to employment with green-collar jobs (Pinderhughes, 2007).

California has three non-profit organizations—San Francisco Conservation Corp., Rising Sun Energy Center, and Solar Richmond that work to prepare men and women with barriers to employment to enter the labor market with green-collar jobs.

The San Francisco Sheriff's Department's Garden Project modeled for community change is an integrated, community-wide, systemic response to crime, high rates of recidivism, and unemployment. It is an intensive program where participants can learn horticulture skills and grow organic vegetables that they can share with senior citizens.

Rocky Mountain Institute is a nonprofit organization that fosters the efficient and restorative use of resources so that companies, governments, and organizations are more efficient, make more money, and do less harm to the environment.

Charlotte Correctional Institute, located in Punta Gorda, FL, has facilities onsite to provide drinking water and wastewater treatment. They also use reclaimed water for institutional laundry and all prison toilets.

Project Goal: Complete 45–50 page white paper on three topic areas: (1) Investigating green-collar job readiness programs; (2) strategies to make penal industry products and services more environmentally friendly and (3) strategies to build or transform agencies into self-sustaining facilities by addressing and including the following objectives:

Conduct a need assessment on the feasibility of green-collar jobs in correctional facilities. This assessment would include specific types of green-collar jobs with considerations to offender custody levels, gender, and special needs;

Research and identify new and existing job readiness training programs that may be or are delivered to prisoners;

Develop training strategies that may be delivered to staff such as job employment specialists and/or job coordinators and allow linkages for soon-to-be released offenders with employment services in the community;

Assess existing programs for environmental awareness (pollution) and green-collar job readiness training (heating and cooling, biofuels, etc.) in penal industries;

Identify new programs to increase green collar products and skills, *i.e.*, recycling, production, machinery, etc., in penal industries;

Create an assessment/resource tool for administrators to consider in the areas of building environment, transportation, water, energy, and other natural resource materials;

Select a methodology that will determine and establish baseline data on prison and jail's energy, water, and resource use and pollution generation;

Introduce cost saving benefits of creating green protocols at facilities that can reduce associated costs focused on "zero waste," *i.e.*, agriculture, construction design/alterations, composting, recycling, energy efficiency, water allocation, etc.;

Determine strategies to build or transform agencies into self-sustaining facilities or for the partial implementation of elements for self-

sustaining, environmentally friendly agencies (*i.e.*, the use of solar panels, windmills, alternative sources of energy, etc.).

Proposal Preparation: The proposal must be no more than 12 pages and include a strategic plan detailing how the work will be organized and completed, project goals and objectives, methodologies, a list of involved persons and their roles, a budget, and the applicant's experience working with environmental issues. The proposal and the applicant's experience should address previously stated goals and objectives in this solicitation.

Required Expertise: It is highly desirable for the successful applicant to demonstrate experience in the following areas: Knowledge of green collar jobs; Knowledge of Leadership in Energy and Environmental Design (LEED) Standards; Knowledge of recycling, conservation and alternative sources of energy; Ability to assess, interpret, and summarize research in relevant fields; Ability to serve as a liaison with research experts connected to the project; Ability to translate concepts into appropriate documents and other forms of communication; Knowledge of correctional organization business practices; Skills in technical writing; Ability to provide professional editing services.

Document Preparation: For all awards in which a document will be a deliverable, the awardee must follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the "General Guidelines for Cooperative Agreements" which will be included in the award package.

Application Requirements: The application should be concisely written, typed double-spaced and reference the "NIC Opportunity Number" and Title provided in this announcement. The application package must include OMB Standard Form 424, Application for Federal Assistance, a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.*, July 1 through June 30), a program narrative responding to the requirements in this announcement, a description of the qualifications of the applicant(s), and an outline of projected costs. The following forms must also be included: OMB Standard Form 424A, Budget Information—Non Construction Programs, OMB Standard Form 424B, Assurances—Non Construction Programs (these forms are available at <http://www.grants.gov>), DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other

Responsibility Matters; and Drug-Free Workplace Requirements (available at <http://www.nicic.org/Downloads/PDF/certif-frm.pdf>). Please limit the program narrative text to 12 double-spaced pages, exclusive of resumes and summaries of experience. Please do not submit full curriculum vitae.

Additional Resources: Go to <http://www.nicic.gov>.

Authority: Public Law 93-415.

Funds Available: NIC is seeking applicants' best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. Funds may be used only for the activities that are linked to the desired outcome of the project.

This project will be a collaborative venture with the NIC Research and Evaluation Division.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual, or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to a 3 to 5 person NIC Review Process. The criteria for the evaluation of each application will be as follows:

Programmatic (60%)

Are all of the tasks adequately discussed? Is there a clear statement of how each task will be accomplished, including the staffing, resources, and strategies to be employed? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project?

Organizational (20%)

Do the skills, knowledge, and expertise of the organization and the proposed project staff demonstrate a high level of competency to carry out the tasks? Does the applicant organization have the necessary experience and organizational capacity to carry out all goals of the project? Are the proposed project management and staffing plans realistic and sufficient to complete the project within the 8-month time frame?

Project Management/Administration (20%)

Does the applicant identify reasonable objectives, milestones, and measures to track progress? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project and a clear structure to insure effective coordination? Is the proposed budget

realistic and provide sufficient cost detail/narrative, and represent good value relative to the anticipated results?

Note: NIC will not award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1-800-333-0505 (if you are a sole proprietor, you would dial 1-866-705-5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site: <http://www.ccr.gov>. A CCR Handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 09PEI27.

This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.602.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. E9-11964 Filed 5-21-09; 8:45 am]

BILLING CODE 4410-36-P

DEPARTMENT OF LABOR

Proposed Information Collection Request for the ETA 538 and ETA 539, Weekly Initial and Continued Claims; Comment Request for 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 collection 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.

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/OMB/OMBControlNumber.cfm>.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 21, 2009.

ADDRESSES: Send comments to Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg., Room S-4531, Washington, DC 20210, telephone number (202) 693-3008 (this is not a toll-free number) or by e-mail: gibbons.scott@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background: The ETA 538 and ETA 539 reports are weekly reports which contain information on initial claims and continued weeks claimed. These figures are important economic indicators. The ETA 538 provides information that allows national unemployment claims information to be released to the public five days after the close of the reference period. The ETA 539 contains more detailed weekly claims information and the state's 13-week insured unemployment rate which is used to determine eligibility for the Extended Benefits program.

II. Desired Focus of Comments: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary, 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 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: The ETA 538 and ETA 539 continue to be needed as they provide both timely economic indicators as well as the information needed to track the data that trigger states "on" and "off" the Extended Benefits program.

Type of Review: Extension without change.

Agency: Employment and Training Administration (ETA).
 Title: Weekly Initial and Continued Claims.
 OMB Number: 1205-0028.
 Agency Number: ETA 538, ETA 539.

Affected Public: State and Local Governments.
 Total Respondents: 53.
 Frequency: Weekly.
 Total Responses: 104 (52 weekly responses for each of the two reports).

Average Time per Response: 30 minutes per submittal for the ETA 538, 50 minutes per submittal for the ETA 539.

Estimated Total Burden Hours:

	Reports	Minutes	Hours
ETA 538—53 States	52	30	1,378.
ETA 539—53 States	52	50	2,297.

Total Burden Hours: 3,675.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintaining): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: Friday, May 15, 2009.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E9-11962 Filed 5-21-09; 8:45 am]

BILLING CODE 4510-FW-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; COBRA Notification Requirements—American Recovery and Reinvestment Act of 2009

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on the revision of the information collection provisions of its final rule at 29 CFR Part 2590, Health Care Continuation Coverage to reflect the hour and cost burden associated with the COBRA notification requirements

under the American Recovery and Reinvestment Act of 2009. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the ADDRESSES section of this notice.

DATES: Written comments must be submitted to the office shown in the ADDRESSES section on or before July 21, 2009.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: ebbsa.opr@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The continuation coverage provisions of section 601 through 608 of ERISA (and parallel provisions of the Internal Revenue Code (Code)) generally require group health plans to offer qualified beneficiaries the opportunity to elect continuation coverage following certain events that would otherwise result in the loss of coverage. Continuation coverage is a temporary extension of the qualified beneficiary's previous group health coverage. The right to elect continuation coverage allows individuals to maintain group health coverage under adverse circumstances and to bridge gaps in health coverage that otherwise could limit their access to health care.

COBRA provides the Secretary of Labor (the Secretary) with authority under section 608 of ERISA to carry out the continuation coverage provisions. The Conference Report that accompanied COBRA divided interpretive authority over the COBRA provisions between the Secretary and the Secretary of the Treasury (the Treasury) by providing that the

Secretary has the authority to issue regulations implementing the notice and disclosure requirements of COBRA, while the Treasury is authorized to issue regulations defining the required continuation coverage.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) of 2009 (Pub. L. 111-5). ARRA includes a requirement that the Secretary of Labor (the Secretary), in consultation with the Secretaries of the Treasury and Health and Human Services, develop model notices for use by group health plans and other entities that, pursuant to ARRA, must provide notices of the availability of premium reductions and additional election periods for health care continuation coverage.

On March 17, 2009, the Office of Management and Budget (OMB) approved the model notices as a revision to OMB Control Number 1210-0123 under the emergency procedures for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. On March 20, 2009, the Department published a Federal Register notice announcing the availability of the notices on its Web site (74 FR11971) at <http://www.dol.gov/ebbsa/COBRA.html>. OMB's approval of the revision currently is scheduled to expire on September 30, 2009.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB's approval of its revision to OMB Control Number 1210-0123 relating to the ARRA model notices. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time. The Department notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: COBRA Notification Requirements—American Recovery and Reinvestment Act of 2009.

Type of Review: Revision of a currently approved collection of information.

OMB Number: 1210-0123.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Respondents: 593,000.

Frequency of Responses: On occasion.

Responses: 38,115,000.

Estimated Total Burden Hours: None.

Estimated Total Burden Cost (Operating and Maintenance): \$34,500,000.

III. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; 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., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: May 18, 2009.

Joseph S. Piacentini,
Director, Office of Policy and Research,
Employee Benefits Security Administration.
[FR Doc. E9-11977 Filed 5-21-09; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request for Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process; Comment Request for Extension Without Change

AGENCY: Employment and Training Administration, Labor.

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 collection 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.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the ADDRESSES section of this notice or by accessing: <http://www.doleta.gov/OMB/CN/OMBControlNumber.cfm>.

DATES: Written comments must be submitted to the office listed in the ADDRESSES section below on or before July 21, 2009.

ADDRESSES: Send comments to Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg., Room S-4231, Washington, DC 20210, telephone number (202) 693-3008 (this is not a toll-free number) or by e-mail: gibbons.scott@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Title XII Section 1201 of the SSA provides for advances to States from the Federal Unemployment Account. The law further sets out specific requirements to be met by a State requesting an advance:

- The Governor must apply for the advance;
- The application must cover a three month period and the Secretary of Labor must be furnished with estimates of the

amounts needed in each month of the three month period;

- The application must be made on such forms and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law as the Secretary of Labor deems necessary or relevant to the performance of his or her duties under this title;

- The amount required by any State for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such month;

- The term "compensation" means cash benefits payable to individuals with respect to their unemployment exclusive of expenses of administration.

Section 1202(a) of the SSA provides that the Governor of any State may at any time request that funds be transferred from the account of such State to the FUA in repayment of part or all of the balance of advances made to such State under section 1201. These applications and repayments may be requested by an individual designated for that authority in writing by the Governor. DOL proposes to extend this procedure through August 2012.

II. Desired Focus of Comments

Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of this collection. Comments are requested to:

- * Evaluate whether the proposed extension of the current procedure 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without change.

Agency: Employment and Training Administration (ETA).

Title: Unemployment Insurance (UI) Title XII Advances and Voluntary Repayment Process.

OMB Number: 1205-0199.

Agency Number: Not applicable.

Affected Public: State Workforce Agencies.

Total Respondents: Up to 53.

Frequency: As needed, based on a State's discretion.

Total Responses: DOL currently projects that on average, 27 States could borrow during each calendar year from 2010 through 2012. Although it's impossible to know the exact number of responses, the maximum would be 4 requests for advances and 4 requests for voluntary repayments per State each year. This will result in 648 total responses over the three year window or an average of 216 responses per year.

Average Time per Response: 1 hour.

Estimated Annual Burden Hours: 216.

Total Burden Cost (Capital/Startup): \$0.

Total Burden Cost (Operating/Maintaining): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: Friday, May 15, 2009.

Cheryl Atkinson,

Administrator, Office of Workforce Security.
[FR Doc. E9-11993 Filed 5-21-09; 8:45 am]

BILLING CODE 4510-FW-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. This is the second notice for public comment; the first was published in the *Federal Register* at 74 FR 964, and three comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission of this information collection request may be found at: [http://](http://www.reginfo.gov/public/do/PRAMain)

www.reginfo.gov/public/do/PRAMain. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to chines@nsf.gov. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703-292-7556.

FOR FURTHER INFORMATION CONTACT:

Suzanne H. Plimpton at (703) 292-7556 or send e-mail to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Comments: On January 9, 2009, we published in the *Federal Register* (74 FR 964) a 60-day notice of our intent to request renewal of this information collection authority from OMB. In that notice, we solicited public comments for 60 days ending March 10, 2009. Three comments were received from the public notice. The first comment came from B. Sachau of Floram Park, NJ, via e-mail on January 9, 2009. Ms. Sachau objected to the information collection.

Ms. Sachau had no specific suggestions for altering the data collection plans other than to discontinue them entirely. Because the comment does not pertain to the collection of information on the required forms for which NSF is seeking OMB approval, NSF is proceeding with the clearance request.

The second comment (more of a request) came from Jerry Stone with the Bureau of Economic Analysis (BEA). He requested a copy of the current survey form and instructions, which were provided to him.

The third comment came from Dr. Dennis Fixler, the Chief Statistician of BEA, who submitted a letter of support for the survey (included with the information collection request materials found at the Web site above). This letter stated that the collected survey data are crucial to key components of BEA's economic statistics and requested some additional data elements be collected in future years. Some of these elements are planned to be collected on the redesigned survey instrument, which will be pilot tested with 40 institutions during the FY 2009 survey. The letter also requested that BEA be kept informed about modifications to the survey instrument.

Title: Survey of Research and Development Expenditures at Universities and Colleges.

OMB Control Number: 3145-0100.

Proposed Renewal Project: Separately budgeted current fund expenditures on research and development in the sciences and engineering performed by universities and colleges and Federally funded research and development centers—A Web survey, the Survey of Research and Development Expenditures at Universities and Colleges, originated in fiscal year (FY) 1954 and has been conducted annually since FY 1972. The survey is the academic research and development expenditure component of the NSF statistical program that seeks to provide a "central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal government," as mandated in the National Science Foundation Act of 1950.

Use of the Information: The proposed project will continue the annual survey cycle for up to three years. The Academic R&D Survey will be a census of the full population—for FY 2009 an expected 751 institutions (713 universities or colleges plus 38 federally

funded research and development centers—FFRDCs). These institutions account for over 95 percent of the Nation's academic R&D funds. NSF will also conduct a pretest of a revised and expanded version of the survey for planned implementation in FY 2010 with a subset of 40 universities or colleges.

The survey has provided continuity of statistics on R&D expenditures by source of funds and by science & engineering (S&E) field, with separate data requested on current fund expenditures for research equipment by

S&E field. Further breakdowns are collected on passed through funds to subrecipients and received as a subrecipient, and on R&D expenditures by field of science and engineering from specific Federal Government agency sources. Information on R&D for non-S&E fields is also requested. Data are published in NSF's annual publication series *Academic R&D Expenditures* and are available electronically on the World Wide Web.

The survey is a fully automated Web data collection effort and is handled primarily by the administrators in

university budget and accounting offices. To minimize burden, institutions are provided with an abundance of guidance and help menus on the Web, in addition to printing and responding via paper copy if necessary. Each record is pre-loaded with the institution's 2 previous years' data and a complete program for editing and trend checking. Response to this voluntary survey in FY 2007 was 96.9 percent.

Burden estimates are as follows:¹

Year	Total number of institutions	Doctorate-granting burden hours	Master's-granting burden hours	Bachelor's degree burden hours	FFRDC's burden hours
FY 1999	480	20.8	13.0	7.5	9.4
FY 2000	700	21.0	12.0	10.5	9.2
FY 2001	625	30.2	11.9	9.0	12.1
FY 2002	625	28.7	14.9	12.2	4.5

Dated: May 19, 2009.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E9-11996 Filed 5-21-09; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

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 Science Foundation (NSF) will publish periodic summaries of proposed projects.

DATES: Written comments on this notice must be received by July 21, 2009 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR

COMMENTS: Contact Suzanne Plimpton, Acting Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone 703-292-7556; or send e-mail to splimpto@nsf.gov. Individuals who use telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. to 8 p.m., Eastern Time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Suzanne Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: National Evaluation of the Alliances for Graduate Education and the Professoriate Faculty and Student Surveys.

OMB Approval Number: 3145-NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection for three years.

Proposed Project: The Division of Human Resource Development (HER/HRD) of the National Science Foundation has requested impact information on the Alliances for Graduate Education and the Professoriate (AGEP) Program. Funded by NSF, the AGEP Program has funded 28 alliances of colleges and universities to promote the participation of underrepresented minority groups in PhD programs in the fields of science, technology, engineering, and mathematics (STEM). The ultimate goal of the program is to increase the number of underrepresented minorities in these fields who enter the professoriate. NSF now seeks follow-up information on program participants—that is, students and faculty—to determine what impact the program has had on graduate students' decisions to enroll in and graduate from STEM doctoral programs

and enter the professoriate. NSF proposes a one-time on-line survey of STEM graduate students currently enrolled in STEM doctoral programs and faculty members at universities taking part in AGEP.

Estimate of Burden: The Foundation estimates that, on average, 30 minutes per respondent will be required to complete the surveys, for a total of 8,250 hours for all respondents. Respondents from the 104 institutions that received NSF AGEP support will be asked to complete this survey once.

Respondents: STEM faculty at AGEP institutions and STEM graduate students at AGEP institutions.

Estimate Total Number of Responses: 16,500.

Estimated Total Annual Burden on Respondents: 8,250 hours.

Dated: May 19, 2009.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E9-12010 Filed 5-21-09; 8:45 am]

BILLING CODE 7555-01-P

¹ Average burden hours for institutions responding to burden item.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-391; NRC-2008-0369]

Tennessee Valley Authority; Notice of Receipt of Update to Application for Facility Operating License and Notice of Opportunity for Hearing for the Watts Bar Nuclear Plant, Unit 2 and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

In accordance with the Commission's direction in its Staff Requirements Memorandum SECY-07-0096, "Staff Requirements—Possible Reactivation of Construction and Licensing Activities for the Watts Bar Nuclear Plant Unit 2," dated July 25, 2007, and pursuant to the Atomic Energy Act of 1954 (the Act), as amended, and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," and 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," notice is hereby given that, on March 4, 2009, the U.S. Nuclear Regulatory Commission (NRC, the Commission) has received an update to the application for a facility operating license (OL) from the Tennessee Valley Authority (TVA or the applicant) that would authorize TVA to possess, use, and operate a second light-water nuclear reactor (the facility), Watts Bar Nuclear Plant (WBN) Unit 2, located on the applicant's site in Rhea County, Tennessee. The unit would operate at a steady-state power level of 3,411 megawatts thermal. The original application dated June 30, 1976, was found acceptable for docketing on September 15, 1976, and "Notice of Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating Licenses; and Notice of Opportunity for Hearing" for WBN Units 1 and 2 was published in the **Federal Register** on December 27, 1976 (41 FR 56244). On February 7, 1996, the NRC issued a full-power OL to TVA to operate WBN Unit 1 at this site. However, TVA has not completed construction of WBN Unit 2. Construction of the facility was authorized by Construction Permit No. CPPR-92, issued by the Commission on January 23, 1973. TVA has stated that it expects to complete construction prior to April 1, 2012.

Pursuant to the National Environmental Policy Act, as amended, and the Commission's regulations in 10 CFR Part 51, on February 15, 2008, TVA

submitted to the NRC "Watts Bar Nuclear Plant (WBN)—Unit 2—Final Supplemental Environmental Impact Statement [FSEIS] for the Completion and Operation of Unit 2," to the NRC in support of its OL application for WBN Unit 2. By letter dated January 27, 2009, TVA submitted its "Final Supplemental Environmental Impact Statement—Severe Accident Management Alternatives [SAMA]," to supplement its FSEIS. After the staff has completed its review of TVA's FSEIS, the NRC will prepare a draft supplement to environmental impact statement related to the operation of WBN Unit 2 (SEIS-OL). Upon preparation of the draft SEIS-OL, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft supplement, requesting comments from interested persons on the draft SEIS-OL. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft SEIS-OL will focus on matters that differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permits and the WBN Unit 1 OL. Upon consideration of comments submitted with respect to the draft SEIS-OL, the Commission's staff will prepare a final SEIS-OL, the availability of which will be published in the **Federal Register**.

The NRC staff will complete a detailed technical review of the application and will document its findings in Supplements to NUREG-0847, "Safety Evaluation Report Related to the Operation of Watts Bar Nuclear Plant, Unit 2."

The Commission will consider the issuance of the facility OL to TVA, which would authorize the applicant to possess, use and operate the WBN Unit 2 in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for the facility OL by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I.

The OL will not be issued until the Commission has made the findings

reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

Within 60 days after the date of initial publication of this notice in the **Federal Register** on May 1, 2009 (74 FR 20350), any person(s) whose interest may be affected by this action and who desires to participate as a party to this action may file a written request for a hearing and a petition to intervene with respect to whether an OL should be issued. 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, "Hearing Requests, Petitions To Intervene, Requirements for Standing, and Contentions," which is available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O-1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Although the notice of the application will be published once each week for 4 consecutive weeks in the **Federal Register**, the 60-day period will only begin upon the date of the first publication of the notice.

If a request for a hearing or petition for leave to intervene is filed within 60 days of the date of the initial notice, 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 or request for hearing 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/requestor 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 licensing action under consideration. The scope of the hearing and intervention request is limited to TVA's application for an OL. 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 shall 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 a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least 10 days prior to the filing deadline, the 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 identification (ID) certificate that allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating or (2) the creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE) viewer, which is 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 how to apply for a digital ID certificate is also 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, he or she can then submit a request for a hearing through EIE. 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 the document through EIE. To be timely, electronic filings 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 document 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 is filed so that they may 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 (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 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 (1) by 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) by 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 the 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 or the presiding officer of the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. eastern time on the due date.

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 they are excluded under an order of the Commission, the 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 telephone numbers in their filings. With respect to

copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a "fair use" application, participants are requested not to include copyrighted materials in their submission.

For further details pertinent to the matters under consideration, see the application for the facility OL dated June 30, 1975, as supplemented on September 27, 1976, and as updated on March 4, 2009, which are available for public inspection 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 electronically through the ADAMS Public Electronic Reading Room link on the internet at the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>. Certain documents included in the OL application contain sensitive unclassified non-safeguards information and safeguards information. Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-4209, 301-415-4737, or by e-mail to pdr.resources@nrc.gov. The OL application and its supplement and update are available at <http://www.nrc.gov/reactors/plant-specific-items/watts-bar.html>. The ADAMS accession numbers for the OL application cover letter and supplement cover letter are ML073400595 and ML073381112, respectively. The ADAMS accession number for the update to the application is ML090700378. The ADAMS accession number for Supplement 21 to NUREG-0847 is ML090570741. The ADAMS accession number for the final safety analysis report, as redacted under 10 CFR 2.390(d)(1), is ML090980525. The redactions were made in compliance with the NRC's criteria on sensitive information, as specified in SECY-04-0191, "Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors From Public Disclosure," dated October 19, 2004 (ADAMS accession number ML042310663), as modified by the NRC Commission Staff Requirements Memorandum SECY-04-0191, dated November 9, 2004 (ADAMS accession number ML043140175). To search for other related documents in ADAMS using the Watts Bar Nuclear Plant Unit 2 OL application docket number, 50-391, enter the term "05000391" in the "Docket Number" field when using either the Web-based search (advanced

search) engine or the ADAMS find tool in Citrix.

Attorney for the applicant: Maureen H. Dunn, Executive Vice President and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI) for Contention Preparation, Tennessee Valley Authority Watts Bar Nuclear Plant, Unit 2, Located in Rhea County, Tennessee

[Docket No. 50-391]

1. This order contains instructions regarding how potential parties to the proceedings listed above may request access to documents containing sensitive unclassified non-safeguards information and safeguards information (SUNSI and SGI).

2. Within ten (10) days after publication of this notice of opportunity for hearing, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A "potential party" is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than ten (10) days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852. The e-mail addresses for the Office of the Secretary and the Office of the General Counsel are hearing.docket@nrc.gov and ogcmailcenter.resource@nrc.gov, respectively.¹ The request must include the following information:

a. A description of the licensing action with a citation to this **Federal**

¹ While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

Register notice of opportunity for hearing;

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in (a);

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF-85, "Questionnaire for Non-Sensitive Positions," Form FD-258 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF-85 can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301-492-3524.² The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of \$200.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the: Office of Administration, Security Processing Unit, Mail Stop TWB-05

² The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

B32M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check. Note: copies of these forms do not need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within ten days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (*i.e.*, indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding³ and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that

a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.⁴ Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,⁵ and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within ten (10) days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an

adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within ten (10) days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within fifteen (15) days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within ten (10) days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.⁶

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

⁴ If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

⁵ Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

⁶ As of October 15, 2007, the NRC's final "E-Filing Rule" became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; Aug. 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI requests submitted to the NRC staff under these procedures.

³ Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

Dated at Rockville, Maryland, this 1st day
of May 2009.

For the Nuclear Regulatory Commission.
Annette L. Vietti-Cook,
Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI) AND SAFEGUARDS INFORMATION (SGI) IN THIS PROCEEDING

Day	Event/Activity
0	Publication of notice of receipt of update to application for facility operating license and notice of opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI and/or SGI with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	NRC staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," "need to know," or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). NOTE: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
B	Decision on contention admission.

[FR Doc. E9-11903 Filed 5-21-09; 8:45 am]
BILLING CODE 7590-01-P

**NUCLEAR REGULATORY
COMMISSION**

[Docket No. 72-7-EA; ASLBP No. 09-888-
03-EA-BD01]

**Detroit Edison Company;
Establishment of Atomic Safety and
Licensing Board**

Pursuant to delegation by the Commission dated December 29, 1972 (37 FR 28710), and the Commission's regulations, see 10 CFR 2.106, 2.300, 2.313(a), and 2.318, notice is hereby given that an Atomic Safety and

Licensing Board (Board) is being established to preside over the following proceeding:

**Detroit Edison Company Fermi Power
Plant**

*(Independent Spent Fuel Storage
Installation)*

This proceeding concerns a Petition to Intervene dated May 7, 2009 from Beyond Nuclear, *et al.*, that was submitted in response to an April 17, 2009 notice issued by the NRC Staff that provided the Issuance of Order for Implementation of Additional Security Measures and Fingerprinting for Unescorted Access to Detroit Edison Company (74 FR 17890).

The Board is comprised of the following administrative judges:
Ronald M. Spritzer, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
Michael F. Kennedy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
Randall J. Charbeneau, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing Rule, which the NRC promulgated in August 2007 (72 FR 49139).

Issued at Rockville, Maryland, this 15th day of May 2009.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E9-11985 Filed 5-21-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC 2009-0214]

Announcement of a Proposed Process Change Regarding the Review of Research and Test Reactor License Renewal Applications; Notice of Public Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of stakeholder meeting regarding a proposed process change for the renewal of research and test reactor licenses.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing a streamlined review process for license renewal applications (LRAs) for research and test reactor (RTR) licenses with the objective of expeditiously resolving the backlog of LRAs while maintaining safety standards. Draft Interim Staff Guidance (ISG) proposed to be implemented will be published for public review prior to the meeting on the NRC Public Meeting Schedule Web site, <http://www.nrc.gov/public-involve/public-meetings/index.cfm>.

DATES: A public meeting for stakeholders will be held June 4, 2009, commencing at 1 p.m.

ADDRESSES: The meeting will be held at the Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Alexander Adams Jr., Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1127, e-mail alexander.adams@nrc.gov; or Marcus Voth, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1210, e-mail marcus.voth@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

At the present time 21 of the 32 RTRs licensed to operate in the United States have LRAs before the NRC. Several issues have contributed to the large backlog, including NRC licensing

staffing levels, emergent issues, limited licensee resources, existing license infrastructure, regulatory requirements, and the broad scope of the RTR license renewal process as discussed in SECY-08-0161, "Review of Research and Test Reactor License Renewal Applications," dated October 24, 2008. In a staff requirements memorandum (SRM) dated March 26, 2009, the staff was directed to streamline the current license renewal process incorporating concepts discussed in SECY-08-0161 among other measures. These documents can be found on the NRC Agencywide Documents Access and Management system (ADAMS) under accession numbers ML0825501403 and ML0908501591, respectively. The staff is presently developing proposed guidance along with the rationale for the focused license renewal process for RTRs.

The traditional process currently being used for reviewing LRAs is to perform a full review based on the standard review plan for RTRs, NUREG-1537, "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors, Part 2," February 1996. The standard review plan addresses all of the topics required to be addressed in applications by 10 CFR 50.33 and 50.34, the same process as used for an initial license issuance. The staff is proposing to continue this full review process for those LRAs well into the renewal review process and for RTRs licensed for power levels equal to or greater than 2 megawatts. The staff proposes to apply the new focused review process to the remaining LRAs in the backlog.

Two public meetings were held to discuss formulation of the proposed process with stakeholders, the first on September 15, 2008, and a second on March 25, 2009. In each meeting the staff presented aspects of the proposed streamlined review process and addressed questions from the public.

Objectives of the Focused Review Process for RTR License Renewal

The objective of the focused review process for license renewal is to provide a process that ensures that applications are properly evaluated, documented, and implemented in accordance with the following goals:

- To ensure the continued health and safety of the public and protection of the environment,
- To provide public confidence in the regulatory oversight process,
- To propose an effective, efficient, and timely method of processing the existing LRA backlog,

- To develop, document, and implement Interim Staff Guidance (ISG) for a focused review process,
- To acknowledge the safe operating histories of RTRs demonstrated over the facility lifetime documented in reports of periodic NRC inspections, and
- To meet requirements of Section 104.c of the Atomic Energy Act calling for " * * * only such minimum amount of regulation of the licensee as the Commission finds will permit the common defense and security to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development."

The staff is proposing that a focused approach be implemented for those facilities in the current LRA backlog that have been reviewed in the past and found to have low risk to the public health and safety. ISG is being prepared that will define a focused review process which meets regulatory requirements and the goals stated above while taking credit for previous reviews of structures, systems, and components. Likewise, a Safety Evaluation Report will be prepared that contains fewer than the entire 18 topics addressed in the standard review plan but at a minimum will address the three areas most critical to safety; reactor design and operation, accident analysis, and technical specifications. The staff is proposing that the ISG not be applied in the following two situations.

First, the staff proposes that the traditional full review process be used for RTRs licensed for greater than 2 megawatts. The licensed maximum thermal power levels of the RTRs range from 5 watts to 20 megawatts. The staff routinely uses a graded approach to apply regulations commensurate with the risk of licensed RTRs. A long-standing demarcation used by the staff has required additional regulatory attention to RTRs licensed for 2 megawatts or greater. Part of the technical basis for this threshold is that reactor power is related to the potential fission product inventory which in turn determines the potential dose consequence of an accident.

Second, the review of some LRAs which are currently nearing completion using the traditional full review process will continue to be performed in that manner rather than using the ISG to allow for the efficient use of staff resources. In implementing the proposed ISG the staff may find that one or more exemptions to certain regulations may be required. If a need for an exemption should arise it is proposed to be processed using existing provisions in the regulations for granting exemptions.

Follow-on Actions

During implementation of the streamlined review process the staff will be considering other regulatory improvements to the RTR LRA process. Specific areas being considered are requirements for maintaining a periodically updated facility Safety Analysis Report and the requirement for earlier submittal of a LRA, allowing time for the licensee to make revisions in the event the NRC determines that the content of the application does not meet the regulatory requirement.

Dated at Rockville, Maryland, this 18th day of May 2009.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Chief, Research and Test Reactor Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E9-11984 Filed 5-21-09; 8:45 am]

BILLING CODE 7590-01-P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Qualified Domestic Relations Orders Submitted to PBGC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collection.

SUMMARY: Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information in PBGC's booklet, *Qualified Domestic Relations Orders & PBGC* (OMB control number 1212-0054; expires August 31, 2009). The booklet provides guidance on how to submit a qualified domestic relations order (a "QDRO") to PBGC. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted by July 21, 2009.

ADDRESSES: Comments may be submitted by any of the following methods:

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

- *E-mail:*

paperwork.comments@pbgc.gov.

- *Fax:* 202-326-4224.

- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension

Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.

PBGC will make all comments available on its Web site at <http://www.pbgc.gov>.

Copies of the collections of information may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting that office or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The current QDRO booklet is available on PBGC's Web site at <http://www.pbgc.gov>.

FOR FURTHER INFORMATION CONTACT: Jo Amato Burns, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: A defined benefit pension plan that does not have enough money to pay benefits may be terminated if the employer responsible for the plan faces severe financial difficulty, such as bankruptcy, and is unable to maintain the plan. In such an event, PBGC becomes trustee of the plan and pays benefits, subject to legal limits, to plan participants and beneficiaries.

The benefits of a pension plan participant generally may not be assigned or alienated. Title I of ERISA provides an exception for domestic relations orders that relate to child support, alimony payments, or marital property rights of an alternate payee (a spouse, former spouse, child, or other dependent of a plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it a qualified domestic relations order.

When PBGC is trustee of a plan, it reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee. The requirements for submitting a domestic relations order and the contents of such orders are established by statute. The models and the guidance provided by PBGC assist parties by making it easier for them to comply with ERISA's QDRO requirements in plans trusted by PBGC; they do not create any additional requirements and result in a reduction of the statutory burden.

OMB has approved the collection of information in PBGC's booklet,

Qualified Domestic Relations Orders & PBGC under control number 1212-0054 through August 31, 2009. PBGC intends to request that OMB extend its approval for another three years. 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.

PBGC estimates that it will receive 895 domestic relations orders each year from prospective alternate payees and participants. PBGC further estimates that the total average annual burden of this collection of information will be 2085 hours and \$496,302.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collections of information are 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 collections of information, including the validity of the methodologies and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collections 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.

Issued in Washington, DC, this 19th day of May 2009.

John H. Hanley,

Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. E9-12021 Filed 5-21-09; 8:45 am]

BILLING CODE 7709-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11707 and #11708]

North Dakota Disaster Number ND-00016

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Dakota (FEMA-1829-DR), dated 04/10/2009.

Incident: Severe storms and flooding.
Incident Period: 03/13/2009 and continuing.

DATES: *Effective Date:* 05/15/2009.
Physical Loan Application Deadline Date: 06/09/2009.
EIDL Loan Application Deadline Date: 01/11/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of North Dakota, dated 04/10/2009 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):
 Benson, Cavalier, Eddy, Mclean, Pembina, Rolette, Wells.

Contiguous Counties (Economic Injury Loans Only):
 Minnesota: Kittson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,
Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-11976 Filed 5-21-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11750 and # 11751]

West Virginia Disaster # WV-00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA-1838-DR), dated 05/15/2009.

Incident: Severe storms, flooding, mudslides, and landslides.

Incident Period: 05/03/2009 and continuing.

Effective Date: 05/15/2009.
Physical Loan Application Deadline Date: 07/14/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 02/15/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/15/2009, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Mingo, Wyoming.

Contiguous Counties (Economic Injury Loans Only):
 West Virginia: Boone, Lincoln, Logan, McDowell, Mercer, Raleigh, Wayne.
 Kentucky: Martin, Pike.
 Virginia: Buchanan.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere	4.875
Homeowners Without Credit Available Elsewhere	2.437
Businesses With Credit Available Elsewhere	6.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 117506 and for economic injury is 117510.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,
Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-11980 Filed 5-21-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11752 and # 11753]

West Virginia Disaster #WV-00013

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of West Virginia (FEMA-1838-DR), dated 05/15/2009.

Incident: Severe storms, flooding, mudslides, and landslides.
Incident Period: 05/03/2009 and continuing.

Effective Date: 05/15/2009.

Physical Loan Application Deadline Date: 07/14/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 02/15/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/15/2009, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
 Mingo, Wyoming.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 117526 and for economic injury is 117536.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,
Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-11979 Filed 5-21-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11754 and # 11755]

Tennessee Disaster #TN-00027

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for

the State of Tennessee (FEMA-1839-DR), dated 05/15/2009.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: 04/10/2009.

Effective Date: 05/15/2009.

Physical Loan Application Deadline Date: 07/14/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 02/15/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/15/2009, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Benton, McMinn, Rutherford, Sequatchie.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500.
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000.

The number assigned to this disaster for physical damage is 11754B and for economic injury is 11755B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-11978 Filed 5-21-09; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28725; File No. 4-582]

Hearing on Target Date Funds and Similar Investment Options

AGENCIES: Employee Benefits Security Administration, U.S. Department of Labor ("Department") and Securities and Exchange Commission ("Commission") (each, an "Agency," collectively, the "Agencies").

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given that the Department of Labor and the Securities and Exchange Commission will hold a joint one-day hearing on issues relating to investments in target date funds and similar investment options by 401(k) plan participants and other investors.

DATES: The one-day hearing will be held on June 18, 2009, beginning at 9 a.m., EST.

ADDRESSES: The hearing will be held at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Fred J. Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, at (202) 693-8500, or Tara R. Buckley, Office of Chief Counsel, Division of Investment Management, U.S. Securities and Exchange Commission, at (202) 551-6825. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: "Target date" or "lifecycle" funds and other similar investment options ("TDFs") are investment products that allocate their investments among various asset classes and automatically shift that allocation to more conservative investments as a "target" date approaches. This shift in asset allocation, often referred to as a fund's "glide path," may differ significantly among funds with the same target date. Recent studies suggest that TDFs are becoming more common as investment options in participant-directed retirement plans, such as 401(k) plans.¹ The growing popularity of TDFs has focused attention on issues relating to the design, operation and selection of TDFs as investment options. The designation of investment options

to be made available under a private-sector retirement plan is governed by the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"). Persons with this responsibility must prudently select and monitor those investment options.

The Department's 2008 ERISA Advisory Council studied several aspects of TDFs as 401(k) plan investment options, including the challenges and risks they may pose to plan fiduciaries and to participants who invest in TDFs, the different types of TDFs, and appropriate criteria for adopting and monitoring them. In its 2008 report to the Secretary of Labor, the Advisory Council recommended that the Department provide additional guidance to plan fiduciaries on the selection and monitoring of TDFs. The Advisory Council also called for the development of participant education materials and illustrations to enhance awareness of the value and the risks associated with these investments.²

The U.S. Senate Special Committee on Aging recently began an investigation of certain TDFs marketed to 401(k) plans. In preliminary findings shared with the Agencies, the Committee found a wide range of objectives, portfolio compositions, and risks among same-year TDFs. The Committee expressed concern that, given these variations, some investors may be investing in TDFs without being aware of the financial risk. The Committee therefore urged the Agencies to commence a review of TDFs.³

In view of the importance of these issues for the retirement savings of investors, the Department and the Commission have decided to hold a public hearing. The primary purpose of this hearing is to determine if additional guidance by either Agency would be helpful. The Agencies are specifically interested in obtaining information on:

- How TDF managers determine asset allocations and changes to asset allocations (including glide paths) over the course of a TDF's operation;
- How they select and monitor underlying investments;
- How the foregoing, and related risks, are disclosed to investors; and
- The approaches or factors for comparing and evaluating TDFs.

The hearing will be held on June 18, 2009, beginning at 9 a.m. and ending at

² See 2008 ERISA Advisory Council Working Group Report on Hard to Value Assets and Target Date Funds, found at: <http://www.dol.gov/ebsa/publications/2008ACreport1.html>.

³ The Committee held a related hearing on February 25, 2009. See: http://aging.senate.gov/hearing_detail.cfm?id=309027&.

¹ Employee Benefits Research Institute Issue Brief #327, March 2009.

5 p.m., EST, in the plaza auditorium of the U.S. Department of Labor, Francis Perkins Building, at 200 Constitution Avenue, NW., Washington, DC 20210.

Persons interested in presenting testimony and answering questions at this public hearing must submit, by 3:30 p.m., EST, June 5, 2009, the following information: (1) A written request to be heard; and (2) An outline of the topics to be discussed, indicating the time allocated to each topic. It should be noted that, while reasonable efforts will be made to accommodate all requests to testify, it may be necessary to limit the number of those testifying in order to adhere to the hearing's one-day format. Any persons not afforded an opportunity to testify will nonetheless have an opportunity to submit a written statement for the record. The hearing will be open to the general public.

Because the Agencies will jointly review all responses submitted, interested parties may send requests and outlines to either Agency and need not submit responses to both Agencies. Respondents are encouraged to use the title "Target Date Fund Joint Hearing" to facilitate the organization and distribution of responses between the Agencies. Interested parties are invited to submit responses to:

Employee Benefits Security Administration, U.S. Department of Labor: To facilitate the receipt and processing of responses, the Department encourages interested persons to submit their requests and outlines electronically by e-mail to e-ORI@dol.gov. Persons submitting requests and outlines electronically should not submit paper copies. Persons submitting requests and outlines on paper should send or deliver their requests and outlines (preferably at least three copies) to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: Target Date Fund Joint Hearing, Room N-5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. All requests and outlines submitted will be available to the public, without charge, online at <http://www.dol.gov/ebsa> and at the Public Disclosure Room, N-1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Securities and Exchange Commission: Responses may be submitted by any of the following methods:

Electronic Responses

- Use the Commission's Internet comment form (<http://www.sec.gov/news/other.shtml>); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number 4-582 Target Date Joint Hearing on the subject line.

Paper Responses

- Send paper requests and outlines 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 4-582 Target Date Fund Joint Hearing. This file number should be included on the subject line if e-mail is used. To help us process and review your requests and outlines more efficiently, please use only one method. The Commission will post all requests and outlines on the Commission's Internet Web site (<http://www.sec.gov>). Requests and outlines are also available for public 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. All requests and outlines received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Agencies will prepare an agenda indicating the order of presentation of oral comments and testimony. In the absence of special circumstances, each presenter will be allotted ten (10) minutes in which to complete his or her presentation.

Information about the agenda will be posted on <http://www.dol.gov/ebsa> and <http://www.sec.gov> on or after June 10, 2009, or may be obtained by contacting Fred Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693-8500, or Tara R. Buckley, Office of Chief Counsel, Division of Investment Management, U.S. Securities and Exchange Commission, at (202) 551-6825.

Those individuals who make oral comments and testimonies at the hearing should be prepared to answer questions regarding their information and/or comments. The hearing will be transcribed. The hearing also will be available via webcast on the Department's Web site at <http://www.dol.gov/ebsa> and on the Commission's Web site at <http://www.sec.gov>.

Any individuals with disabilities who may need special accommodations should notify Fred Wong on or before June 10, 2009.

Notice of Public Hearing

Notice is hereby given that a one-day public hearing will be held on June 18, 2009, concerning issues related to investments in TDFs. The hearing will be held beginning at 9 a.m. in the plaza auditorium of the U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Dated: May 19, 2009.

By the U.S. Department of Labor.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, U.S. Department of Labor.

Dated: May 19, 2009.

By the Securities and Exchange Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9-12024 Filed 5-21-09; 8:45 am]

BILLING CODE 4510-29-P; 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

In the Matter of Today's Man, Inc., Tokheim Corp., Total Film Group, Inc., Toth Aluminum Corp., Tower Air, Inc., TPC Liquidation, Inc., the Translation Group, Ltd., Track 'n Trail, Inc., TransAxis, Inc., Transmedia Europe, Inc., Treasury International, Inc., Trend-Lines, Inc., and Tri Lite, Inc., Respondents; Order of Suspension of Trading

May 20, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Today's Man, Inc. because it has not filed any periodic reports since the period ended November 2, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tokheim Corp. because it has not filed any periodic reports since the period ended August 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Total Film Group, Inc. because it has not filed any periodic reports since the period ended March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Toth Aluminum Corp. because it has not filed any periodic reports since the period ended February 29, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tower Air, Inc. because it has not filed any periodic reports since the period ended September 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TPC Liquidation, Inc. because it has not filed any periodic reports since the period ended September 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The Translation Group, Ltd. because it has not filed any periodic reports since the period ended December 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Track 'n Trail, Inc. because it has not filed any periodic reports since the period ended December 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TransAxis, Inc. because it has not filed any periodic reports since the period ended March 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Transmedia Europe, Inc. because it has not filed any periodic reports since the period ended June 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Treasury International, Inc. because it has not filed any periodic reports since the period ended October 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Trend-Lines, Inc. because it has not filed any periodic reports since the period ended August 24, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tri Lite, Inc. because it has not filed any periodic reports since the period ended June 30, 1999.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 20, 2009, through 11:59 p.m. EDT on June 3, 2009.

By the Commission.
Elizabeth M. Murphy,
Secretary.
[FR Doc. E9-12103 Filed 5-20-09 4:15 pm]
BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59925; File No. SR-Phlx-2009-43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to the Order Entry Port Fee

May 14, 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 May 7, 2009, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the manner in which members are assessed the Order Entry Port Fee of \$250 a month. The Exchange proposes to delete endnote 60, which references the Order Entry Port Fee and defines an active order entry port, and instead charge members the \$250 monthly fee regardless of whether the order entry port is active.

While changes to the Exchange's Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated this proposal to be implemented on June 1, 2009.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, and at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify the manner in which the Order Entry Port Fee is billed to members. The Order Entry Port Fee is a connectivity fee assessed on members in connection with routing orders to the Exchange via an external order entry port. Currently, members access the Exchange's network through order entry ports. A member organization may have more than one order entry port. Member are assessed a monthly fee of \$250 in connection with sending orders to the Exchange. The \$250 monthly Order Entry Port Fee is assessed per member organization order entry mnemonic.³ Specifically, the fee is currently assessed on any order entry mnemonic that is active during a billing month. An order entry mnemonic is considered active if a member organization sends at least one order to the Exchange using that order entry mnemonic during the applicable billing month.⁴

The Exchange proposes to assess the \$250 monthly Order Flow Port Fee on members regardless of whether the order entry mnemonic is active during the billing month. Accordingly, the Exchange proposes to delete endnote 60 which states, "[a]n order entry mnemonic is considered active if a member organization sends at least one order to the Exchange using that order entry mnemonic during the applicable billing month." Instead, the Exchange

³ Order entry mnemonics are codes that identify member organization order entry ports.

⁴ See Securities Exchange Act Release No. 58728 (October 3, 2008), 73 FR 59695 (October 9, 2008) (SR-Phlx-2008-70). See also the Exchange's Fee Schedule at endnote 60.

proposes to assess members the \$250 monthly fee, regardless of usage, and solely on the number of order entry ports assigned to each member organization. Per this proposal, whether or not the order entry port is active will not be considered in billing the monthly fee of \$250, only the amount of order entry ports per member organization will determine the amount billed to a member organization.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act⁶ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The proposal would continue to uniformly assess the Order Entry Port Fee on members in order to support the costs of the infrastructure associated with market access. The fee remains reasonable in that members will continue to be charged a flat rate for this service based on the number of order entry ports.

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 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and paragraph (f)(2) of Rule 19b-4⁸ 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.

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 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 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 Number SR-Phlx-2009-43 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-Phlx-2009-43. 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 Phlx. 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-Phlx-2009-43 and should be submitted on or before June 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-11937 Filed 5-21-09; 8:45 am]
BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59932; File No. SR-NYSEArca-2009-43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Regarding the Minimum Creation and Redemption Size Applicable to the MacroShares Major Metro Housing Trusts

May 15, 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 May 13, 2009, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. NYSE Arca filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), proposes to modify the representation made in SR-NYSEArca-2008-92 regarding the minimum creation and redemption size aggregation applicable to the MacroShares Major Metro Housing Up Trust ("Up Trust") and the MacroShares Major Metro Housing Down Trust ("Down Trust") (collectively, the "Trusts"). The shares of the Up Trust are referred to as the Up MacroShares, and the shares of the Down Trust are referred to as the Down MacroShares (collectively, the "Shares"). The text of

⁹ 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 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

the proposed rule change 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 Securities and Exchange Commission (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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved pursuant to Section 19(b)(2) of the Act the Exchange's proposal to list and trade the Up MacroShares and the Down MacroShares under NYSE Arca Equities Rule 8.400.⁶ As described in the Approval Order and Notice, the Up Trust and the Down Trust intend to issue Up MacroShares and Down MacroShares, respectively, on a continuous basis. The Up MacroShares and the Down MacroShares represent undivided beneficial interests in the Up Trust and the Down Trust, respectively. As of May 12, 2009, the Shares have not commenced trading on the Exchange.

The assets of the Down Trust will consist of an income distribution agreement and settlement contracts entered into with the Up Trust.

Similarly, the assets of the Up Trust will consist of an income distribution agreement and settlement contracts entered into with the Down Trust.⁷ Each Trust will also hold U.S. Treasuries, repurchase agreements on U.S. Treasuries and cash to secure its obligations under the income distribution agreement and the settlement contracts. The trustee for the Trusts is State Street Bank and Trust Company.

As described in the Notice, the Trusts will make quarterly distributions of net income, if any, on the treasuries and a final distribution of all assets they hold on deposit on the final scheduled termination date, an early termination date or a redemption date. Each quarterly and final distribution will be based on the value of the S&P/Case-Shiller Composite-10 Home Price Index ("Index"), as well as on prevailing interest rates on U.S. Treasury obligations. The last published value of the Index is referred to as the "Reference Value of the Index" or "Reference Value", as discussed in the Notice.

The Notice stated that the Up MacroShares may be issued only in MacroShares Units consisting of a minimum of 50,000 Up MacroShares issued by the Up Trust and 50,000 Down MacroShares issued by the Down Trust. In addition, the Notice stated that the Up MacroShares must be redeemed together with Down MacroShares by any holder who is an authorized participant on any business day in MacroShares Units consisting of a minimum of 50,000 Up MacroShares and 50,000 Down MacroShares, at the respective Underlying Value of those Shares, as measured on the applicable redemption date.

Since the date of the Approval Order, the Trusts have amended the Registration Statements to provide that the minimum size aggregation for issuance and redemption of Shares will be 10,000 rather than 50,000 Up MacroShares and Down MacroShares (collectively "MacroShare Units"). The Exchange notes that since the Up MacroShares and Down MacroShares are created and redeemed in tandem, the aggregate creation and redemption size of the MacroShares Units will be approximately \$1.25 million upon the initial issuance.⁸ The Exchange also notes that the minimum initial issuance

upon commencement of Exchange trading must be at least 100,000 Up MacroShares and Down MacroShares, as specified in the Notice. The Exchange believes that the change to the size of MacroShares Units will not adversely impact investors or Exchange trading. In addition, reduction in the size of MacroShares Units may facilitate creation and redemption activity in Shares, with potential benefits to investors, which may include tighter bid/ask spreads. Aside from the update to the minimum size aggregations for issuance and redemption of Shares, there is no other change to the operation of the Trusts.

2. Statutory Basis

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),¹⁰ 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the proposed rule change will facilitate the listing and trading of the Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² Because the foregoing proposed rule change: (1) Does not significantly affect the

⁶ See Securities Exchange Act Release Nos. 58704 (October 1, 2008), 73 FR 59026 (October 8, 2008) (order approving listing and trading on the Exchange of the Trusts ("Approval Order")); 58469 (September 5, 2008), 73 FR 53306 (September 15, 2008) (SR-NYSEArca-2008-92) (notice of proposed rule change to list and trade the Trusts on the Exchange ("Notice")). See also, Securities Exchange Act Release No. 59542 (April 1, 2009), 74 FR 15803 (April 7, 2009) ("Modifying Order") (order approving change to the leverage factor applicable to the Trusts). The Shares are being offered by the Trusts under the Securities Act of 1933, 15 U.S.C. 77a. On April 29, 2009, the depositor filed with the Commission preliminary Registration Statements on Form S-1 (Amendment No. 6) for the Up MacroShares (File No. 333-151522) and for the Down MacroShares (File No. 333-151523) ("Registration Statements"). The descriptions herein relating to the operation of the Trusts is based on the Registration Statements.

⁷ Terms referenced herein relating to the Trusts but not defined are defined in the Registration Statements.

⁸ Generally, the aggregate creation and redemption unit size for exchange-traded funds is approximately \$1.25 million upon the initial issuance.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days of this 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 Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing.¹⁵ However, Rule 19b-4(f)(6)(iii) 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 so that the proposal may become operative immediately upon filing. In support, the Exchange states that the proposed reduction in the size of the MacroShares Units may facilitate creation and redemption activity in the Shares, which could result in tighter bid/ask spreads.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.¹⁶ The proposed rule change seeks to amend a representation the Exchange made in the Notice, to reflect a proposed change in the minimum Share aggregation for issuance and redemption from 50,000 to 10,000 MacroShares Units. The Commission believes that this proposal does not raise any regulatory concerns. The Commission notes that it has previously approved both the listing and trading of Shares of the Trusts on the Exchange, and an amendment to the leverage factor of this product.¹⁷

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 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-NYSEArca-2009-43 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-2009-43. 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-NYSEArca-2009-43 and should be submitted on or before June 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-11940 Filed 5-21-09; 8:45 am]
BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59934; File No. SR-BATS-2009-013]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rule 11.13, entitled "Order Execution"

May 15, 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 May 12, 2009, BATS Exchange, Inc. ("BATS" 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 as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 11.13, entitled "Order Execution," to provide Users⁵ of the Exchange with another option with respect to the Exchange's method of processing the unfilled balance of a limit order that returns to the Exchange after being routed away to one or more away Trading Centers⁶ for execution.

The text of the proposed rule change is available at the Exchange's Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ As defined in BATS Rule 1.5(bb).

⁶ As defined in BATS Rule 2.11.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ See *id.* In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide 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 of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁷ See Approval Order and Modifying Order, *supra* note 6.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide Users of the Exchange with another option with respect to the Exchange's method of processing the unfilled balance of a limit order that returns to the Exchange after being routed away to one or more away Trading Centers for execution. In connection with this additional option, the Exchange has also proposed various clarifying changes related to the functionality of the current processing options.

The Exchange currently allows Users to submit various types of limit orders to the Exchange that are processed pursuant to Rules 11.13(a)(1) and 11.13(a)(2)(B), as set forth below. Rule 11.13(a)(1) describes the process by which an incoming order would execute against the BATS Book.⁷ To the extent an order has not been executed in its entirety against the BATS Book, Rule 11.13(a)(2)(B) then describes the process of routing marketable limit orders⁸ to one or more Trading Centers, including a description of how the Exchange treats any unfilled balance that returns to the Exchange following the first attempt to fill the order through the routing process. Currently, the Exchange either converts such unfilled balance to a BATS Only order, and processes it in accordance with Rule 11.9(c)(4) or again checks the BATS Book for liquidity, then routes the order to away Trading Centers until the Exchange has confirmed that no available liquidity exists on the BATS Book or at away

Trading Centers and the order's limit price has been reached.

The Exchange believes that the proposed changes to Rule 11.13 make the process described above more clear. In addition, the Exchange proposes to offer Users a third option for processing of the unfilled balance that returns to the Exchange. As proposed, the new Rule 11.13(a)(2)(B) will allow Users to instruct the Exchange to execute the order against the BATS Book and route the order to away Trading Centers up to the limit price of the order. At the limit price, the Exchange will attempt to execute the order against the BATS Book one time and attempt to fill the order at one or more away Trading Centers, and then cancel any unfilled balance of the order back to the User. This differs from the second option because under the new, proposed option, after routing the order away at the limit price, the Exchange will not again check the BATS Book for available liquidity before canceling the order back to the User.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁹ Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,¹⁰ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest, by allowing Users to instruct the Exchange to attempt to execute their orders at the applicable limit price against the BATS Book and then at one or more away Trading Centers, but then to promptly cancel the remaining balance back. This functionality will allow the Exchange to seek to execute the order as promptly as possible but will also provide Users with a faster response as to whether their orders have been executed.

(B) Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Because the foregoing 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 after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹³ 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. BATS states that implementation of the order type described in this filing will provide BATS Users with another option with respect to the handling of orders routed away from the Exchange that is completely optional, and will not require any programming changes by BATS Users unless they choose to use the new functionality.¹⁵ The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow BATS Users to immediately benefit from this minor variation to the order handling used by the Exchange today pursuant to the Exchange's existing rules. In addition, the Commission notes that the proposal does not raise any new substantive issues. The Commission hereby grants

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this notice requirement.

¹⁴ *Id.*

¹⁵ See SR-BATS-2009-013, Item 7.

⁷ As defined in BATS Rule 1.5(d).

⁸ Market orders are also routed away, pursuant to Rule 11.13(a)(2)(A), however the Exchange is not proposing any changes to the treatment of routed market orders at this time.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

the Exchange's request and designates the proposal operative upon filing.¹⁶

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the 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-BATS-2009-013 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-BATS-2009-013. 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 changes 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

¹⁶ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

the principal office of BATS. 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-BATS-2009-013 and should be submitted on or before June 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-11941 Filed 5-21-09; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF STATE

[Public Notice 6630]

Culturally Significant Objects Imported for Exhibition Determinations: "James Ensor"

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 "James Ensor," 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 Museum of Modern Art, New York, NY, from on or about June 28, 2009, until on or about September 21, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, telephone: (202-453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

¹⁷ 17 CFR 200.30-3(a)(12).

Dated: May 18, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9-12017 Filed 5-21-09; 8:45 am]

BILLING CODE 4710-05-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS384 and WTO/DS386]

WTO Dispute Settlement Proceeding Regarding United States—Certain Country of Origin Labeling Requirements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice that the United States received additional requests for consultations under the *Marrakesh Agreement Establishing the World Trade Organization* ("WTO Agreement") concerning certain mandatory country of origin labeling (COOL) requirements from Canada and Mexico in separate letters dated May 7, 2009. Those requests may be found at <http://www.wto.org> contained in documents designated as WT/DS384/1/Add.1 for Canada and WT/DS386/1/Add.1 for Mexico. USTR invites written comments from the public concerning the issues raised in these disputes.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 1, 2009, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to <http://www.regulations.gov>, docket number USTR-2009-0004. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Priti Seksaria Agrawal, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures*

Governing the Settlement of Disputes ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by Canada

On December 1, 2008, Canada requested consultations regarding U.S. mandatory COOL, and consultations were held on December 16, 2008. In its December 1, 2008 consultations request, Canada challenged the COOL provisions in the *Agricultural Marketing Act of 1946*, as amended by the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), and implemented in the U.S. Department of Agriculture ("USDA") Interim Final Rule published on August 1, 2008. In Canada's May 7, 2009 letter requesting further consultations, Canada noted that the Interim Final Rule had been replaced by a USDA Final Rule published on January 15, 2009, and that on February 20, 2009, the Secretary of Agriculture issued a letter regarding implementation of the Final Rule.

Canada alleges that the U.S. measures appear to be inconsistent with the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), Articles III:4, IX:2, IX:4, and X:3, the *Agreement on Technical Barriers to Trade* ("TBT Agreement"), Article 2 or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures* ("SPS Agreement"), Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Article 2. Additionally, Canada alleges these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada in the sense of GATT 1994, Article XXIII:1(b).

Major Issues Raised by Mexico

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory COOL, and consultations were held on February 27, 2009. In its December 17, 2008 consultations request, Mexico challenged the COOL provisions in the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security, and Rural Investment Act of 2002* and the *Food, Conservation, and Energy Act, 2008*, and implemented by the regulations published in 7 CFR parts 60 and 65. In Mexico's May 7, 2009 letter requesting further consultations, it explained that this request concerns

related measures and amendments adopted by the United States after Mexico's initial request for consultations, including USDA's Final Rule on COOL published on January 15, 2009 and the Secretary of Agriculture's letter on COOL dated February 20, 2009.

Mexico alleges that the U.S. measures appear to be inconsistent with the GATT 1994, Articles III, IX, and X, the TBT Agreement, Article 2 and 12 or in the alternative, the SPS Agreement, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Article 2. Additionally, Mexico alleges these violations nullify or impair the benefits accruing to Mexico under those Agreements and further appear to nullify or impair the benefits accruing to Mexico in the sense of GATT 1994, Article XXIII:1(b).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to <http://www.regulations.gov> docket number USTR-2009-0004. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via <http://www.regulations.gov>, enter docket number USTR-2009-0004 on the home page and click "go." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Send a Comment or Submission." (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking on "How to Use This Site" on the left side of the home page.)

The <http://www.regulations.gov> site provides the option of providing comments by filling in a "General Comments" field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "General Comments" field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily

be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov>. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice. Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov> or by fax. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to

public inspection may be viewed on the <http://www.regulations.gov> Web site.

Daniel Brinza,

Assistant United States Trade Representative,
for Monitoring and Enforcement.

[FR Doc. E9-12004 Filed 5-21-09; 8:45 am]

BILLING CODE 3190-W9-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-2009-0121]

Notice of Request for Information Collection Approval

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*) this notice announces the U.S. Department of Transportation's (DOT) intention to renew the utilization of the individual employment discrimination complaint form when processing Equal Employment Opportunity (EEO) discrimination complaints filed by applicants for employment with the Department. The Office of Management and Budget (OMB) approved the form in 2006 with its renewal required by July 31, 2009.

DATES: Comments on this notice must be received by July 21, 2009.

ADDRESSES: You may submit comments [identified by DOT Docket Number OST-2009-0121] by any of the following methods:

- **Web Site:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Room W12-140, Washington, DC 20590.

- **Hand Delivery or Courier:** West Building, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

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

Instructions: All submissions must include the agency name (Office of the Secretary, DOT) and docket number for this rulemaking. You should provide two copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided, and will be available to Internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://DocketsInfo.dot.gov>.

Docket: For Internet access to the docket to read background documents and comments received, go to <http://www.regulations.gov>. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tami Wright, Associate Director, Compliance Operations Division (S-34), Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, 202-366-9370 or (TTY) 202-366-0663.

SUPPLEMENTARY INFORMATION:

Form Title: Individual Complaint of Employment Discrimination.

OMB Control Number: OMB #2105-0556.

Type of Request: OMB renewal.

Abstract: DOT will utilize the form to collect information necessary to process EEO discrimination complaints filed by individuals who are not Federal employees and are applicants for employment with the Department. These complaints are processed in accordance with the Equal Employment Opportunity Commission's regulations, 29 CFR part 1614, as amended. DOT will use the form to: (a) Request requisite information from the applicant for processing his/her EEO employment discrimination complaint; and (b) obtain information to identify an individual or his or her attorney or other representative, if appropriate. An applicant's filing of an EEO employment complaint is solely voluntary. DOT estimates that it takes an applicant approximately one hour to complete the form.

Respondents: Job Applicants filing EEO employment discrimination complaints.

Estimated Number of Respondents: 10 per year.

Estimated Total Burden on Respondents: 10 hours per year.

Comments are invited on: (a) Whether the proposed collection of information is reasonable for the proper performance of the EEO functions of the Department, and (b) the accuracy of the Department's estimate of the burden of the proposed information collection. All responses to the notice will be summarized and included in the request for Office of Management and Budget approval. All comments also will become a matter of public record.

Issued in Washington, DC, on May 15, 2009.

Mary N. Whigham Jones,

Acting Director, Departmental Office of Civil Rights.

BILLING CODE 4910-9X-P

OMB No:
Expiration Date:

PAPERWORK REDUCTION ACT BURDEN STATEMENT

Under the Paperwork Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number. The public reporting burden for this voluntary collection of information is estimated to average 1 hour per response. If you wish to comment on the accuracy of the estimate or make suggestions for reducing this burden, please direct your comments to the U.S. Department of Transportation, Departmental Office of Civil Rights, S-30, 1200 New Jersey Avenue, SE, Washington, DC 20590



**DEPARTMENT OF TRANSPORTATION
INDIVIDUAL COMPLAINT OF EMPLOYMENT DISCRIMINATION
FORM INSTRUCTIONS**

*(Read the following instructions carefully before you complete this form)
(Please complete all items on the complaint form)*

GENERAL: This form should be used only if you, as an applicant for employment with the Department of Transportation, or as a present or former Department of Transportation employee:

- 1) believe you have been discriminated against because of your **race, color, religion, sex, national origin, age** (40 years or older at the time of the event giving rise to your claim), **physical or mental disability, sexual orientation** or believe that you have been **retaliated** against for participating in activities by civil rights statutes. (*Sexual orientation complaints filed against the Department are processed in accordance with the Secretary of Transportation's Equal Employment Opportunity (EEO) Policy Statement dated May 7, 1993 and Executive Order 13087 issued May 28, 1998. Complaints based on sexual orientation are not covered by the Equal Employment Opportunity Commission regulations that govern the processing of Federal Sector discrimination complaints (Title 29 Code of Federal Regulations (C.F.R.), Part 1614.), and*
- 2) have presented the matter for informal resolution to an EEO Counselor within **45 days** of the event giving rise to your claim, or within **45 days** of first becoming aware of the alleged discrimination.

IMPORTANT NOTE: In certain situations, the information provided in Part III of the attached complaint form may be used in lieu of an affidavit in the investigation of your complaint. Accordingly, the information you provide in this part should be brief, clear, and complete.

WHEN TO FILE: In accordance with 29 C.F.R. § 1614.106, your formal complaint must be filed within **15 calendar days** of the date you received the Notice of Right to File a Discrimination Complaint form from your EEO Counselor. You must sign and date your complaint. If you are represented **by an attorney**, the attorney may sign the complaint on your behalf.

These time limits may be extended: **1)** if you show that you were not notified of the time limits and were not otherwise aware of them, or **2)** if you were prevented by circumstances beyond your control from submitting the matter within the time limits, or **3)** for other reasons considered sufficient by the Department.

REPRESENTATION: You may have a representative of your own choosing at all stages of the processing of your complaint. However, your representative will be disqualified if such representation would conflict with the official or collateral duties of the representative. No EEO Counselor or EEO Officer may serve as a representative. (*Your representative need not be an attorney, but only an attorney representative may sign the complaint on your behalf.*)


WHERE TO FILE: The complaint should be filed with the Associate Director, Compliance Operations Division (S-34), Departmental Office of Civil Rights, 1200 New Jersey Avenue, S.E., 76-401, Washington, DC 20590. Filing instructions are contained in the "Right to File" form which was provided by your EEO Counselor. Keep a copy of the completed complaint form for your records.

(PLEASE ALSO READ THE PRIVACY ACT STATEMENT ON THE NEXT PAGE)

PRIVACY ACT STATEMENT

1. **FORM NUMBER/TITLE DATE:** Department of Transportation Form Number _____, Individual Complaint of Employment Discrimination with the Department of Transportation.
2. **AUTHORITY:** 42 U.S.C. 2000e; 29 U.S.C. 633a; PL 95-062 as amended; 5 U.S.C. 1303 and 1304; 5 C.F.R. 5.2 and 5.3; 29 C.F.R. 1614.105 and 1614.107; and Executive Order 11478, as amended.
3. **PRINCIPAL PURPOSES:** The purpose of this complaint form, whether recorded initially on the form or taken from a letter from the Complainant, is to record the filing of a formal written complaint of employment discrimination with the Department of Transportation on the grounds of race, color, religion, sex, national origin, age, physical or mental disability, sexual orientation or retaliation, and to reach a decision on the complaint. Information provided on this form will be used by the Department of Transportation to determine whether the complaint was timely filed and whether the claims in the complaint are within the purview of 29 C.F.R. Part 1614, and to provide a factual basis for investigation of the complaint.
4. **ROUTINE USES:** Other disclosures may be:
 - a. to respond to a request from a Member of Congress regarding the status of the complaint or appeal;
 - b. to respond to a court subpoena and/or to refer to a district court in connection with a civil suit;
 - c. to disclose information to authorized officials or personnel to adjudicate a complaint or appeal;
 - d. to disclose information to another Federal agency or to a court or third party in litigation when the Government is party to a suit before the court.
5. **WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY, AND EFFECT ON INDIVIDUAL BY NOT PROVIDING INFORMATION:** Formal complaints of employment discrimination must be in writing, signed by the Complainant (or attorney representative), and must identify the parties and action or policy at issue. Failure to comply may result in the Department of Transportation dismissing the complaint. It is not mandatory that this form be used to provide the requested information.

DETACH AND KEEP THIS PAGE WHEN YOU FILE YOUR COMPLAINT

 <p>DEPARTMENT OF TRANSPORTATION</p> <p>INDIVIDUAL COMPLAINT OF EMPLOYMENT DISCRIMINATION WITH THE DEPARTMENT OF TRANSPORTATION</p>	<p>FOR OFFICE USE ONLY</p> <p>DEPARTMENT CASE NUMBER _____</p> <p>FILING DATE _____</p>
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PART I COMPLAINANT IDENTIFICATION INFORMATION

<p>1. Name (Last, First, Middle Initial)</p>	<p>5a. Name and Address of Organization Where You Work (If a Department of Transportation Employee)</p>
<p>2. Telephone/Fax (Include Area Code)</p> <p>Home: _____ Fax: _____</p> <p>Work: _____ Fax: _____</p> <p>E-Mail: _____</p>	<p>Office and Staff Symbol _____</p> <p>Street Address _____</p> <p>City _____ State _____ Zip Code _____</p>
<p>3. Present Home Address (You must notify the Departmental Office of Civil Rights of any changes of address while complaint is pending, or your complaint may be dismissed)</p> <p>Street Address _____</p> <p>City _____ State _____ Zip Code _____</p>	<p>5b. Last four digits of your Social Security Number: _____</p>
<p>4. If you are a <i>current</i> or <i>former</i> employee of the federal government, list your most recent title, series, and grade.</p> <p>Title _____ Series _____ Grade _____</p>	<p>6. Employment Status in Relation to this Complaint:</p> <p><input type="checkbox"/> Applicant <input type="checkbox"/> Probationary <input type="checkbox"/> Career/Career Conditional</p> <p><input type="checkbox"/> Former Employee _____ Date Last Employed at Department _____</p> <p><input type="checkbox"/> Retired _____ Date of Retirement _____</p> <p><input type="checkbox"/> Other _____ Specify _____</p>

7. I certify that all of the statements made in this complaint are true, complete, and correct to the best of my knowledge and belief.

Signature of Complainant or ATTORNEY Representative _____ Date _____

PART II DESIGNATION OF REPRESENTATIVE

8. You may represent yourself in this complaint or you may choose someone to represent you. Your representative does not have to be an attorney. You may change your designation of a representative at a later date, but you must notify the Departmental Office of Civil Rights immediately in writing of any change, and you must include the same information requested in this Part.

"I hereby designate _____ (Please Print Name) to serve as my representative during the course of this complaint. I understand that my representative is authorized to act on my behalf.

<p>9. Representative's Mailing Address</p> <p>Firm/Organization _____</p> <p>Street Address _____</p> <p>City _____ State _____ Zip Code _____</p>	<p>10. Representative's Employer (If Federal Agency) _____</p> <p>11. Representative's Telephone/Fax (Include Area Code)</p> <p>Telephone: _____ Fax: _____</p>
<p>12. COMPLAINANT'S SIGNATURE _____ DATE _____</p>	

PART III ALLEGED DISCRIMINATORY ACTIONS

13. Name and Address of Agency/office that took the action at issue (if different than item 5.)			14. If your complaint involves nonselection for a position, please complete the following:		
Office and Organizational Component			Position Title	Series	Grade
Street Address					
City	State	Zip Code	Vacancy Announcement No.	Date Learned of Nonselection	
15. (A) Describe the action taken against you that you believe was discriminatory; (B) Give the date the action occurred, and the name of each person responsible for the action; (C) Describe how you were treated differently than other employees or applicants because of your race, color, religion, sex, national origin, age, disability, or in retaliation for your participation in the EEO process or opposition to alleged discriminatory practices; (D) indicate what harm, if any, came to you in your work situation as a result of this action. (You may attach extra sheets.)					
16. Mark below ONLY the bases you believe were relied on to take the actions described in #15.					
<input type="checkbox"/> Race (State Race) _____		<input type="checkbox"/> Mental Disability (Specify) _____			
<input type="checkbox"/> Color (State Complexion) _____		<input type="checkbox"/> Physical Disability (Specify) _____			
<input type="checkbox"/> Religion (State Religion) _____		<input type="checkbox"/> Retaliation/Reprisal (Dates of prior EEO Activity) _____			
<input type="checkbox"/> Sex (State Sex) _____		<input type="checkbox"/> Sexual Orientation (Specify) _____			
<input type="checkbox"/> National Origin (Specify) _____					
<input type="checkbox"/> Age (Date of Birth) _____					
17. What remedial or corrective action are you seeking?					

PART IV COUNSELOR CONTACT

18. When did the most recent discriminatory event occur?			23. When did you receive your Notice of Right to File?		
Month	Day	Year	Month	Day	Year
19. When did you first become aware of the alleged discrimination?			24. On this same matter, have you filed a grievance or appeal under:		
Month	Day	Year	Negotiated Grievance procedures <input type="checkbox"/> YES <input type="checkbox"/> NO		
20. When did you contact an EEO counselor?			Agency grievance procedure <input type="checkbox"/> YES <input type="checkbox"/> NO		
Month	Day	Year	MSPB appeal procedure <input type="checkbox"/> YES <input type="checkbox"/> NO		
21. Did you discuss ALL actions raised in item 15 with an EEO Counselor? <input type="checkbox"/> YES <input type="checkbox"/> NO (If no, explain on attached sheet)			If you filed a grievance or appeal, provide date filed, case number, and present status.		
22. Name and Telephone number of EEO Counselor					
Name		Telephone No.			

[FR Doc. E9-11988 Filed 5-21-09; 8:45 am]
BILLING CODE 4910-9X-C

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Project Number SP-0008-03(048)]

Environmental Impact Statement: Rankin County, MS

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Rankin County, Mississippi. The project study area will extend a distance of approximately 15 miles from U.S. Highway 49 near Star, Mississippi, to Interstate 20 near State Route 475 in Pearl, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Dickie Walters, Environmental Protection Specialist, Federal Highway Administration, 666 North Street, Suite 105, Jackson, MS 39202-3199, Telephone: (601) 965-4217. Contact at the State level is Mr. Claiborne Barnwell, Environmental/Location Division Engineer, Mississippi Department of Transportation, P.O. Box 1850, Jackson, MS 39215-1850, telephone: (601) 359-7920.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Mississippi Department of Transportation (MDOT), will prepare an Environmental Impact Statement (EIS) for a U.S. Highway 49 Star Connector in Rankin County, Mississippi. The proposed improvements are intended to help alleviate high levels of congestion and travel delays on U.S. Highway 49 between Star and Interstate 20.

A Coordination Plan for Agency and Public Involvement will be developed in accordance with Public Law 109-59, SAFETEA-LU, Title VI, Section 6002, Efficient Environmental Reviews for Project Decision Making, August 10, 2005, and will outline the process by which project information will be communicated to the lead, cooperating, participating, and other agencies and organizations, and the public. This plan will also identify how input from agencies and the public will be solicited and considered. The Coordination Plan is intended to be a flexible and fluid document and will be available at public and agency meetings for review.

The purpose of the EIS is to address the transportation, environmental, and

safety issues of such a transportation corridor. The proposed fully controlled U.S. Highway 49 Star Connector on new location would provide a safer roadway and improve mobility for those traveling to or through the Jackson Metropolitan area from the South Mississippi region. Additionally, the proposed U.S. Highway 49 Star Connector would create an additional route to I-55 North by providing traffic a route through the planned Airport Parkway reducing movements through the I-55/I-20/U.S. 49 interchange. Alternatives under consideration include (1) taking no action and (2) build alternatives.

The FHWA and MDOT are seeking input as a part of the scoping process to assist in determining and clarifying issues relative to this project. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, Native American tribes, private organizations and citizens who have previously expressed or are known to have interest in this proposal. A formal scoping meeting with Federal, State, and local agencies, and other interested parties will be held in the near future. Public involvement meetings will be held during the EIS process. The draft EIS will be available for public and agency review and comment prior to the official public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Dated: May 18, 2009.

Donald E. Davis,

Assistant Division Administrator, Federal Highway Administration, Mississippi Division, Jackson, Mississippi.

[FR Doc. E9-11991 Filed 5-21-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-28043]

Hours of Service (HOS) of Drivers; Application of American Pyrotechnics Association (APA) for Exemption From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The American Pyrotechnics Association (APA) has applied for a limited exemption from FMCSA's regulation that drivers of commercial motor vehicles (CMVs) may not drive after the 14th hour after coming on duty. The exemption would apply solely to the operation of CMVs by 14 designated APA motor carriers in conjunction with staging fireworks shows celebrating Independence Day during the periods June 28-July 8, 2009, and June 28-July 8, 2010, inclusive. During these two periods, the approximately 100 CMV drivers employed by these 14 APA motor carriers in conjunction with staging fireworks shows would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers would not be allowed to drive after accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and would continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. The APA maintains that the terms and conditions of the limited exemption would ensure a level of safety equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This exemption would be effective during the periods of June 28, 2009, through July 8, 2009, inclusive, and June 28, 2010, through July 8, 2010, inclusive. The exemption would expire on July 9, 2010. Comments must be received on or before June 8, 2009.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2007-28043 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Telefax:* 1-202-493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., 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 Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading

below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: You may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://DocketInfo.dot.gov>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You may obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Yager, Chief, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide FMCSA authority to grant exemptions from its motor carrier safety regulations, including the hours-of-service (HOS) rules. The procedure for requesting an exemption is prescribed in 49 CFR part 381. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted, and to comment on the

request. The Agency may grant an exemption for up to 2 years.

The Agency reviews the safety analyses and public comments and may grant the exemption 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" (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which the exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption.

APA Application for Exemption

The HOS rules in 49 CFR 395.3(a)(2) prohibit a property-carrying CMV driver from driving after the 14th hour after coming on duty following 10 consecutive hours off duty. APA, a trade association representing the domestic fireworks industry, has applied for an exemption from this subsection for 14 of its member motor carriers. A copy of the application is included in the docket referenced at the beginning of this notice. A list of the 14 APA motor carriers within the scope of this exemption request is included as an appendix to this notice.

The initial APA application for this type of exemption was submitted in 2004; a copy of it is in this docket. That application fully describes the nature of the pyrotechnic operations of the CMV drivers employed by APA-member motor carriers during a typical Independence Day period. The CMV drivers are trained pyro-technicians holding a commercial driver's license (CDL) with hazardous materials (HM) endorsement. They transport fireworks and related equipment by CMV on a very demanding schedule, often to remote locations. After they arrive, the APA drivers set-up and stage fireworks shows.

In 2007, FMCSA granted this same limited exemption to 70 APA-member motor carriers for their CMV transportation of fireworks for Independence Day displays in 2007 and 2008 (72 FR 28755, May 22, 2007). The Agency is not aware of any adverse safety events related to APA operations during these periods. APA has now applied for the same limited exemption for 14 additional motor carriers. (APA has also applied for renewal of the exemption granted in 2007 for 61 of the 70 member-companies.)

APA is seeking this exemption because compliance with the current 14-hour rule by its members during these two 11-day periods would impose a substantial economic hardship on numerous cities, towns and municipalities, as well as the APA companies. To meet the demand for fireworks under the current HOS rules, APA asserts that its member companies would be required to hire a second driver for most trips. The result would be a substantial increase in the cost of the fireworks shows—beyond the means of many of APA's customers—and would deny many Americans this important component of their Independence Day celebration.

Method To Ensure an Equivalent or Greater Level of Safety

APA believes that this exemption would not adversely affect the safety of the motor carrier transportation provided by its members during the two eleven-day periods. According to the APA, without the extra on-duty time provided by the exemption, safety would decline because APA drivers would be unable to return to their home base after each show. They would be forced to park the CMVs carrying HM 1.1G, 1.3G and 1.4G products in areas less secure than the motor carrier's home base.

APA has stated its belief that the operational demands of this unique industry minimize the risk of a CMV crash. During the exemption period, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display, and normally do so in the early morning when traffic is light. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by a period of several hours off duty in the late afternoon and early evening prior to the shoot. During this time, the CMV drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. After the shoot, they drive the CMVs to the point of origin. This occurs late in the evening, and thus avoids heavy traffic. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers. APA believes that these operations, conducted under the terms and conditions of this limited exemption, would provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Terms and Conditions of the Exemption

Period of the Exemption

APA's request for exemption from the requirements of 49 CFR 395.3(a)(2) would be effective June 28 through July 8, 2009, inclusive, and from June 28 through July 8, 2010, inclusive. The requested exemption would expire on July 9, 2010.

Extent of the Exemption

This exemption would be restricted to drivers employed by the 14 companies, firms and entities listed in the appendix to this notice. The drivers would be entitled to a limited exemption from the requirements of 49 CFR 395.3(a)(2), which prohibits a driver from driving after the 14th hour after coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by this exemption would be able to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. This exemption would be contingent on each driver driving no more than 11 hours in a 14-hour on-duty period. The exemption would further be contingent on each driver having 10 consecutive hours off duty following 14 hours on duty prior to beginning a new driving period. The drivers must comply with all other requirements of 49 CFR part 395.

Preemption

During the periods the exemption would be in effect, no State would be permitted to enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption.

Notification to FMCSA

Each company, firm and entity listed in the appendix to this notice would be required to notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while under this exemption. The notification must include the following information:

- a. Date of the accident,
- b. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
- c. Driver's name and driver's license number,
- d. Vehicle number and State license number,
- e. Number of individuals suffering physical injury,
- f. Number of fatalities,
- g. The police-reported cause of the accident,
- h. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and
- i. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

Termination

During the exemption periods, FMCSA would retain the authority to take all steps necessary to protect the public interest, including revocation of the exemption. Exempt motor carriers and drivers would be subject to FMCSA monitoring while operating under this exemption. FMCSA would immediately revoke the exemption for failure to comply with its terms and conditions.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on APA's request for a limited exemption from the requirements of 49 CFR 395.3(a)(2) for the 14 motor carriers listed in the appendix to this notice. FMCSA will consider all comments received by close of business on June 8, 2009. All comments will be available for examination in the docket listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: May 18, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

APPENDIX TO THE NOTICE OF APPLICATION OF AMERICAN PYROTECHNICS ASSOCIATION (APA) FOR A LIMITED HOS EXEMPTION FOR 14 MOTOR CARRIERS DURING THE 2009 AND 2010 INDEPENDENCE DAY CELEBRATIONS

	Motor carrier	Address	DOT No.
1	Alpha-Lee Enterprises, Inc	4111 FM 2351, Friendswood, TX 77546	1324580
2	American Fireworks Company	7041 Darrow Road, Hudson, OH 44236	103972
3	Atlas Pyrovision Productions, LLC	P.O. Box 498, Jaffrey, NH 03452	789777
4	Cartwright Fireworks, Inc	1608 Keely Road, Franklin, PA 16323	882283
5	DDT, LLC—All American Transport, LLC	4503 E. 460, Pryor, OK 74361	1606354
6	Entertainment Fireworks, Inc	P.O. Box 7160, Olympia, WA 98507-7160	680942
7	Fireworks Productions of Arizona, Ltd	17034 S 54th Street, Chandler, AZ 85226	948780
8	Fireworks West Internationale	3200 West 910 North, Logan, UT 84321	245423
9	Great Lakes Fireworks	24805 Marine, Eastpointe, MI 48021	1011216
10	Hollywood Pyrotechnics, Inc	1567 Antler Point, Eagan, MN 55122	1061068
11	Johnny Rockets Fireworks Display Co	4410 N. Hamilton, Chicago, IL 60625	1263181
12	Night Magic, Inc	P.O. Box 294, Kingsbury, IN 46345	557323
13	Rainbow Fireworks, Inc	76 Plum Ave., Inman, KS 67546	1139643
14	Victory Fireworks Inc	579 Vincent Lane, Ellsworth, WI 54011	539751

[FR Doc. E9-12056 Filed 5-21-09; 8:45 am]
BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-28043]

Hours of Service (HOS) of Drivers; Renewal of American Pyrotechnics Association (APA) Exemption From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemption of the American Pyrotechnics Association (APA) from FMCSA's regulation that drivers of commercial motor vehicles (CMVs) may not drive after the 14th hour after coming on duty. The exemption for 61 motor carriers and approximately 3,000 CMV drivers is applicable during the periods June 28–July 8, 2009, and June 28–July 8, 2010, inclusive. Drivers who operate CMVs in conjunction with staging fireworks shows celebrating Independence Day will be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers will continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. FMCSA believes that with the terms and conditions in place, APA members will maintain a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

DATES: This renewed exemption is effective during the periods of June 28, 2009, through July 8, 2009, inclusive, and June 28, 2010, through July 8, 2010, inclusive. The exemption expires on July 9, 2010. Comments must be received on or before June 8, 2009.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number 2007-28043 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the Online instructions for submitting comments.
- *Telefax:* 1-202-493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., 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 Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the Online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: You may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://DocketInfo.dot.gov>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You may obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments Online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Yager, Chief, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325, e-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption from the hours of service (HOS) requirements in 49 CFR 395.3(a)(2) 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 procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381. FMCSA has evaluated the APA application for a renewal on its merits and decided to renew the exemption for the 61 companies requested for a two-year period. The list of APA member companies covered by the exemption from 49 CFR 395.3(a)(2) is included as an Appendix to this Notice.

APA Application for Exemption Renewal

The HOS rules in 49 CFR 395.3(a)(2) prohibit a property-carrying CMV driver from driving after the 14th hour after coming on duty following 10 consecutive hours off duty. APA, a trade association representing the domestic fireworks industry, has applied for renewal of an exemption from this subsection. A copy of the request for renewal is included in the docket referenced at the beginning of this notice. A copy of APA's original request for exemption, submitted in December 2004, is also in the docket.

As stated in APA's 2004 request for exemption, the CMV drivers employed by APA members are trained pyrotechnicians, and hold a commercial driver's license (CDL) with hazardous materials (HM) endorsement. They transport fireworks and equipment by CMV on a very demanding schedule during a brief Fourth of July period, often to remote locations. After they arrive, the APA drivers set up and stage fireworks shows.

In 2007, FMCSA granted this exemption to certain APA members for property-carrying CMV transportation associated with the Independence Day fireworks displays in 2007 and 2008. The exemption was limited to the period from June 28 to July 6, inclusive, in 2007 and 2008 (72 FR 28755, May 22, 2007).

APA is seeking renewal of this exemption for the 2009 and 2010 Independence Day periods because compliance with the current 14-hour rule by its members would impose a substantial economic hardship on numerous cities, towns and municipalities, as well as its member companies. To meet the demand for fireworks under the current HOS rules, APA member companies would be required to hire a second driver for most trips. The result would be a substantial increase in the cost of the fireworks shows—beyond the means of many of APA's customers—and that many Americans would be denied this important component of the celebration of Independence Day.

APA is requesting that the renewed exemption extend 4 days after Independence Day in 2009 and 2010, instead of the 2 days as in past years. This is to take into consideration that Independence Day is on a weekend in 2009 and 2010, which causes some communities to schedule their fireworks displays on different dates. This also provides for "rain dates" that may be scheduled.

Method To Ensure an Equivalent or Greater Level of Safety

APA believes that renewal of the exemption will not adversely affect the safety of the fireworks transportation provided by these motor carriers. According to the APA, its member motor carriers have operated under this exemption for four previous Independence Day periods without a reported motor carrier safety incident. Moreover, it asserts, without the extra duty-period time provided by the exemption, safety would decline because APA drivers would be unable to return to their home base after each show. They would be forced to park the CMVs carrying HM 1.1G, 1.3G and 1.4G products in areas less secure than the motor carrier's home base.

In its original exemption request, APA argued that the operational demands of this unique industry minimize the risks of CMV crashes. In the last few days before the Independence Day holiday, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display, and normally do so in the early morning when traffic is light. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by several hours off duty in the late afternoon and early evening prior to the shoot. During this time, the drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. After the shoot, they drive the CMV to the point of origin. This occurs late in the evening, and thus avoids heavy traffic. Before beginning another duty day, these drivers must take 10 consecutive hours off-duty, the same as other CMV drivers. FMCSA believes that these APA operations, conducted under the terms and conditions of this limited exemption, will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Terms and Conditions of the Exemption

Period of the Exemption

The exemption from the requirements of 49 CFR 395.3(a)(2) is effective June 28 through July 8, 2009, inclusive, and from June 28 through July 8, 2010, inclusive. The exemption expires on July 9, 2010.

Extent of the Exemption

This exemption is restricted to drivers employed by the 61 companies, firms and entities listed in the appendix to this notice. The drivers are entitled to a limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation currently prohibits a driver from driving after the 14th hour after coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by this exemption may exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. This exemption is contingent on each driver driving no more than 11 hours in a 14-hour period. The exemption is further contingent on each driver having a full 10 consecutive hours off duty following 14 hours on duty prior to beginning a new driving period. The drivers must comply with all other requirements of 49 CFR part 395.

Preemption

During the periods the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption.

FMCSA Notification

Exempt motor carriers must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while under this exemption. The notification must include the following information:

- a. Date of the accident,
- b. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
- c. Driver's name and driver's license number,
- d. Vehicle number and State license number,
- e. Number of individuals suffering physical injury,
- f. Number of fatalities,
- g. The police-reported cause of the accident,

h. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and

i. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

Termination

FMCSA does not believe the motor carriers and drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions. Exempt motor carriers and drivers are subject to FMCSA monitoring while operating under this exemption.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on APA's request for a renewal of its exemption from the requirements of 49 CFR 395.3(a)(2). FMCSA will review all comments received and determine whether the renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e). Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

FMCSA believes the requirements for a renewal of an exemption under 49 U.S.C. 31315 and 31136(e) can be satisfied by initially granting the renewal and then requesting and subsequently evaluating comments submitted by interested parties.

Interested parties or organizations possessing information that would otherwise show that any or all of these APA member companies are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemption of the company or companies and drivers in question.

Issued on: May 18, 2009.

Larry W. Minor,
Associate Administrator for Policy and Program Development.

APPENDIX TO NOTICE OF RENEWAL OF AMERICAN PYROTECHNICS ASSOCIATION (APA) EXEMPTION FROM THE 14-HOUR HOS RULE DURING 2009 AND 2010 INDEPENDENCE DAY CELEBRATIONS

Motor carrier	Address	DOT No.
Alonzo Fireworks Display, Inc	12 County Rd 75, Mechanicsville, NY 12118	420639
American Promotional Events, Inc.—West/TNT Fireworks	555 North Gilbert Street, Fullerton, CA 92833	564520
American Promotional Events, Inc.—East Coast/TNT Fireworks	4511 Helton Drive, Florence, AL 35630	0121384
American Promotional Events—Northwest/TNT Fireworks	2120 Milwaukee Way, Tacoma, WA 98421	013086
Arrowhead Fireworks Co., Inc	3625 Normanna Rd., Duluth, MN 55803	125673
Atlas Enterprises Inc	6601 Nine Mile Azle Rd., Fort Worth, TX 76135	0116910
Atomic Fireworks	3660 W. Sunshine, Springfield, MO	130200
Atomic Fireworks	999 Sumter Highway, Bishopville, SC	446835
Atomic Fireworks	P.O. Box 190, South Pittsburg, TN	095166
B.J. Alan Company	555 Martin Luther King, Jr Blvd., Youngstown, OH 44502	262140
Central States Fireworks, Inc	18034 Kincaid Street, Athens, IL 62613	1022659
Colonial Fireworks Company	5225 Telegraph Road, Toledo, OH 43612	177274
Falcon Fireworks	3411 Courthouse Road, Guyton, GA 31312	1037954
Fireworks & Stage FX America	P.O. Box 488, Lakeside, CA 92040	908304
Fireworks by Grucci, Inc	1 Grucci Lane, Brookhaven, NY 11719	324490
Fireworks Productions, Inc	P.O. Box 294, Maryland Line, MD	464796
Garden State Fireworks, Inc	383 Carlton Road, Millington, NJ 07946	435878
Galaxy Fireworks, Inc	204 E. MLK Jr Blvd., Tampa, FL 33603	809731
Gateway Fireworks Displays	P.O. Box 39327, St Louis, MO 63139	1325301
Global Pyrotechnics Solutions, Inc	10476 Sunset Drive, Dittmer, MO 63023	1183902
Hamburg Fireworks Display, Inc	4300 Logan Lancaster Rd., Lancaster, OH	395079
Ingram Enterprises dba Fireworks over America	6597 W. Independence Drive, Springfield, MO 65802	0268419
International Fireworks Mfg. Co	242 Sycamore Road, Douglasville, PA 19518	385065
Island Fireworks Company	N735 825th St, Hager City, WI 54014	414583
J&M Displays, Inc	18064 170th Ave., Yarmouth, IA 52660	377461
Jake's Fireworks/Fireworks Spectacular	2311 A West 4th St., Pittsburg, KS 66762	449599
July 4 Ever	382 Rock Cut Rd., Walden, NY 12586	803442
Kellner's Fireworks, Inc	478 Old Rte 8, Harrisville, PA	481553
Lantis Fireworks and Lasers	P.O. Box 491, Draper, UT 84202	195428
Lantis Fireworks, Inc	130 Sodrac Dr., N Sioux City, SD 57049	534052
Legion Fireworks Co., Inc	10 Legion Lane, Wappingers Falls, NY 12590	554391
Lew's Fireworks, Inc	45788 U.S. Hwy 212, Watertown, SD 57201	333792
Mad Bomber/Planet Productions	P.O. Box 294, Kingsbury, IN 46345	777176
Melrose Display Company	7620 Little Mount Rd., Taylorsville, KY 40071	434586
Melrose North Pyrotechnics	9405 River Rd., SE., Clear Lake, MN 55319	434586
Melrose Pyrotechnics, Inc	P.O. Box 302, Kingsbury, IN 46345	434586
Melrose South Pyrotechnics	4652 Catawga River Rd., Catawga, SC 29704	545033
Montana Display, Inc	9480 Inspiration Drive, Missoula, MT 59808	1030231
Precocious Pyrotechnics, Inc	4420 278th Ave., NW., Belgrade, MN 56312	435931
Pyro Engineering Inc., dba/Bay Fireworks	110 Route 110, Suite 102, Huntington Station, NY 11746	530262
Pyro Shows, Inc	701 W. Central Ave., LaFollette, TN 37766	456818
Pyro Spectaculars, Inc	3196 N. Locust Ave., Rialto, CA 92376	029329
Pyrotechnics by Presutti, Inc	P.O. Box 42, St Clairsville, OH 43950	51974
Pyrotecnico	302 Wilson Rd., New Castle, PA 16105	526749
Pyrotecnico of Louisiana, LLC	60 West Ct., Mandeville, LA 70471	548303
RES Specialty Pyrotechnics	21595 286th St., Belle Plaine, MN 56011	523981
Rich Brothers Company	700 S. Marion Rd., Sioux Falls, SD 57106	001356
Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd., Loveland, OH 45140	0483686
Skyworks, Ltd	13513 W. Carrier Rd., Carrier, OK 73727	1421047
Spielbauer Fireworks Co, Inc	220 Roselawn Blvd., Green Bay, WI 54301	046479
Stonebraker-Rocky Mountain Fireworks Co	5650 Lowell Blvd., Unit E, Denver, CO 80221	0029845
Thunder Fireworks	5207 187th St., E, Tacoma, WA 98446	463284
Vermont Fireworks Co., Inc./Northstar Fireworks Co., Inc	2235 Vermont Route 14 South, East Montpelier, VT 05651	310632
Wald & Co., Inc	P.O. Box 319, Greenwood, MO 64034	087079
Walt Disney Entertainment	5700 Maple Road, Lake Buena Vista, FL 32830	148477
Western Enterprises, Inc	P.O. Box 160, Carrier, OK 73727	203517
Western Fireworks, Inc	14592 Ottaway Rd., NE., Aurora, OR 97002	838585
Winco Fireworks Int. LLC	1992 NW Hwy 50, Lone Jack, MO	259688
Wolverine Fireworks Display, Inc	205 W. Seidlers, Kawkawlin, MI	376857
Young Explosives Corp	P.O. Box 18653, Rochester, NY	450304
Zambelli Fireworks MFG Co., Inc	P.O. Box 1463, New Castle, PA 16103	033167

[FR Doc. E9-12057 Filed 5-21-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Notice of Final Federal Agency Actions on Proposed Highway in Michigan****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Notice of Decision by FHWA and Notice of Limitation of Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces the availability of a Record of Decision by FHWA pursuant to the requirements of the National Environmental Protection Policy Act of 1969 (NEPA), 42 U.S.C. 4321, as amended and the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508). In addition, this Notice announces actions taken by FHWA and other Federal agencies that are final with in the meaning of 23 U.S.C. 139(1)(1). These actions relate to a proposed expansion of the Blue Water Bridge Port of Entry in Port Huron, Michigan. These actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 771 and 23 U.S.C. 139(1)(1). A claim seeking judicial review of the Federal Agency actions on the highway project will be barred unless the claim is filed on or before November 18, 2009 (180 days from the publication date of this notice in the Federal Register). If the Federal law that authorizes that judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. David Williams, Environmental Program Manager, Federal Highway Administration Michigan Division, 315 West Allegan Street, Room 201, Lansing, MI 48933; phone: (517) 702-1820, Fax: (517) 377-1804; and e-mail: David.Williams@FHWA.DOT.gov. Mr. Ryan Rizzo, Major Project Manager, Federal Highway Administration Michigan Division, 315 West Allegan Street, Room 201, Lansing, MI 48933; phone: (517) 702-1833, Fax: (517) 377-1844; E-mail: Ryan.Rizzo@fhwa.dot.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following plaza expansion project in the State of Michigan: Blue Water Bridge Study, St. Clair County, Michigan. The

Selected Alternative is the City West Alternative that will: increase the size of the U.S. Port of Entry plaza bringing most of the elevated plaza down to street level; meet all plaza operational and traffic circulation needs through the year 2030; relocate Pine Grove Avenue (M-25) to the west around the new plaza; replace and expand the Black River Bridge, the Water Street Interchange, and the Lapeer Connector interchange; resurface and expand 2.5 miles of the existing I-94/I-69 freeway; and relocate the Michigan Welcome Center to vacant land north of I-94/I-69 approximately one mile west of its current location. The Selected Alternative is located within the City of Port Huron and the Charter Township of Port Huron, St. Clair County, Michigan. The plaza portion of the project lies primarily between Hancock Street on the north, 10th Avenue to the east, and relocated Pine Grove Avenue to the south and west.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement for the project approved on March 20, 2009, in the FHWA Record of Decision (ROD) issued on May 12, 2009, and in other project records. The FEIS, ROD, and other documents in the FHWA project file are available by contacting the FHWA or the Michigan Department of Transportation at the addresses provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site at: http://www.michigan.gov/mdot/0,1607,7-151-9621_11058_36266--,00.html or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act [42 U.S.C. 4321-4351]; Federal-Aid Act [23 U.S.C. 109].
2. *Air:* Clean Air Act, as amended [42 U.S.C. 7401-7671(q)].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)].

6. *Social and Economics:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indians Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Act [7 U.S.C. 4201-4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, as amended [42 U.S.C. 61].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319)]; Coastal Zone Management Act [14 U.S.C. 1451-1465]; Land and Water Conservation Fund [16 U.S.C. 4601-4604]; Safe Drinking Water Act [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [42 U.S.C. 401-406]; TEA-21 Wetland Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. 9501-9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99-499]; Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

9. *Executive Orders:* E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplains Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13112, Invasive Species; E.O. 13274, Environmental Stewardship and Transportation Infrastructure Project Reviews.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

***Authority:** 23 U.S.C. 139(1)(1).

Issued on: May 18, 2009.

James J. Steele,
Michigan Division Administrator.

[FR Doc. E9-12022 Filed 5-21-09; 8:45 am]
BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA-2009-0067]

Qualification of Drivers; Exemption Applications; Diabetes**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt thirty-eight individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective May 22, 2009. The exemptions expire on May 23, 2011.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, fmcamedical@dot.gov, FMCSA, Room W64-224, Department of Transportation, 1200 New Jersey Avenue, SE., 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> and/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.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's 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, or other entity). You may review DOT's complete Privacy Act Statement in the *Federal Register* (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://Docketinfo.dot.gov>.

Background

On April 6, 2009, FMCSA published a notice of receipt of Federal diabetes exemption applications from thirty-eight individuals, and requested comments from the public (74 FR 15578). The public comment period closed on May 6, 2009 and no comments were received.

FMCSA has evaluated the eligibility of the thirty-eight applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The 2003 notice in conjunction with the November 8, 2005 (70 FR 67777) *Federal Register* Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These thirty-eight applicants have had ITDM over a range of 1 to 45 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage their diabetes, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the April 6, 2009, *Federal Register* Notice (74 FR 15578). Therefore, they will not be repeated in this notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows

the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not they are related to an episode of hypoglycemia; (3) 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 (4) 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

After considering the comments to the docket, and based upon its evaluation of the thirty-eight exemption applications, FMCSA exempts, Paul Anaya, William C. Arrington, Gregory W. Arsenaunt, Raymond Barajas, Gary R. Butts, Buck H. Bowers, Darin L. Carpenter, William N. Carpenter, James F. Carroll, Jeffrey W. Cotner, Randy J. Cool, Boyd L. Croshaw, William Frantz, Steven Garcia, Carl A. George, James E. Gordon, Jr., Scott D. Gottheld, Juan A. Hartwell, Cole G. Hoff, David A. Holzbach, Gary

A. Hopkins, Joseph T. Jackson, Donald A. Lambrecht, William M. Liebert, Howard A. McCowan, William J. Mlejnek, John F. Naughton, Curtis J. Panther, Eric S. Ritter, Gary L. Robinson, Todd J. Schoeller, Chad W. Schumaker, Kevin J. Sears, David W. Slininger, Peter A. Storm, Robert J. Streets, Don A. Wisnosky, and Patrick D. Yasten from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two 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(e) 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: May 15, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-12054 Filed 5-21-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-1999-5578; FMCSA-2000-8398; FMCSA-2002-13411; FMCSA-2004-17984; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2006-26066; FMCSA-2006-25246; FMCSA-2007-27333]

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 22 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 May 6, 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 22 renewal applications, FMCSA renews the Federal vision exemptions for Rex A. Botsford, Roger C. Carson, Robert A. Casson, Gregory L. Cooper, Kenneth D. Craig, Christopher A. Deadman, Jerald O. Edwards, David R. Gross, George Harris, Francisco J. Jimenez, Kenneth C. Keil, Paul R. Kerpsie, Melvin A. Kleman, Roosevelt Lawson, Emanuel N. Malone, Roberto E. Martinez, Richard W. Mullenix, George K. Sizemore, James A. Strickland, Clarence L. Swann, Jr., Kerry W. VanStory and Manuel A. Vargas.

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 May 15, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-12055 Filed 5-21-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Mitsui Rail Capital, LLC (WB992-2-05/18/09), for permission to use certain data from the Board's Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245-0330.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9-11975 Filed 5-21-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Proposed Collection; Comment Request for Reporting, Procedures, and Penalties Regulations

AGENCY: Office of Foreign Assets Control, 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 Office of Foreign Assets Control ("OFAC") within the Department of the Treasury is soliciting comments concerning OFAC's

information collection requirements contained within OFAC's Reporting, Procedures and Penalties Regulations set forth at 31 CFR part 501.

DATES: Written comments should be received on or before July 21, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to "Paperwork Reduction Act" care of the Policy Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex—4th Floor, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information about the filings or procedures should be directed to the Policy Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex—4th Floor, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Title: Reporting, Procedures and Penalties Regulations.

OMB Number: 1505-0164.

Agency Form Number: TD-F-90-22.50.

Abstract: The collections of information are contained in sections 501.601 through 501.605, 501.801, and 501.803 through 501.807 and pertain to the operation of various economic sanctions programs administered by OFAC under 31 CFR Chapter V. Section 501.601 relates to the maintenance of records, and section 501.602 relates to OFAC demands for information relative to any transaction or property subject to the provisions of 31 CFR Chapter V. Section 501.603 imposes reporting requirements pertaining to blocked assets and retained funds transfers. This information is required by OFAC to monitor compliance with regulatory requirements, to support diplomatic negotiations concerning the targets of sanctions, and to support settlement negotiations addressing U.S. claims. Section 501.604 requires the filing of reports for compliance purposes by U.S. financial institutions where a funds transfer is not required to be blocked but is rejected because the underlying transaction is otherwise prohibited. Section 501.605 requires reporting of information pertaining to litigation, arbitration, and other binding alternative dispute resolution proceedings in the United States to prevent the intentional or inadvertent transfer through such proceedings of blocked property or retained funds. Sections 501.801 and 501.803 through 501.805 relate to license requests; the amendment, modification or revocation of licenses; rulemaking; and document requests. Section 501.806 sets forth the

procedures to be followed by a person seeking to have funds released at a financial institution if the person believes that the funds were blocked due to mistaken identity. Section 501.807 sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or the designation of a vessel as blocked, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

The likely respondents and recordkeepers affected by the information collections contained in part 501 are financial institutions, business organizations, individuals, and legal representatives. The estimated total annual reporting and/or recordkeeping burden is approximately 26,250 hours. The estimated annual burden per respondent/record keeper varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 1.25 hours. The estimated number of respondents and/or record keepers is 21,000. The estimated annual frequency of responses: 1-12.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Financial institutions, business organizations, individuals, and legal representatives.

Estimated Number of Respondents: 21,000.

Estimated Time per Respondent: 1.25 hours.

Estimated Total Annual Burden Hours: 26,250.

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 for five years.

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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 18, 2009.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E9-12005 Filed 5-21-09; 8:45 am]

BILLING CODE 4811-45-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG-131478-02]

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 NPRM and Temporary, REG-131478-02 Guidance Under Section 1502; Suspension of Losses on Certain Stock Disposition.

DATES: Written comments should be received on or before July 21, 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 regulations should be directed to Carolyn N. Brown, at (202) 622-6688, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at Carolyn.N.Brown@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Guidance Under Section 1502; Suspension of Losses on Certain Stock Disposition.

OMB Number: 1545-1828.

Regulation Project Number: REG-131478-02 (NPRM).

Abstract: The information in § 1.1502-35T(c) is necessary to ensure that a consolidated group does not obtain more than one tax benefit from both the utilization of a loss from the disposition of stock and the utilization of a loss or deduction with respect to another asset that reflects the same economic loss; to allow the taxpayer to make an election under § 1.1502-35T(c)(5) that would benefit the taxpayer; the election in § 1.1502-35T(f) provides taxpayers the choice in the case of a worthless subsidiary to utilize a worthless stock deduction or absorb the subsidiary's losses; and § 1.1502-35T(g)(3) applies to ensure that taxpayers do not circumvent the loss suspension rule of § 1.1502-35T(c) by deconsolidating a subsidiary and then re-importing to the group losses of such subsidiary.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,500.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 15,000.

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: May 19, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-12144 Filed 5-21-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0648]

Proposed Information Collection (FMP); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to reimburse healthcare providers for medical services provided to veterans with service-connected disabilities living or traveling overseas.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 21, 2009.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) <http://www.Regulations.gov>; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: mary.stout@va.gov. Please refer to "OMB Control No. 2900-0648" 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 the Office of Management and Budget (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.

Titles:

a. Foreign Medical Program (FMP) Registration Form, VA Form 10-7959f-1.

b. Claim Cover Sheet—Foreign Medical Program (FMP), VA Form 10-7959f-2.

OMB Control Number: 2900-0648.

Type of Review: Extension of a currently approved collection.

Abstracts:

a. Veterans with service connected disabilities living or traveling overseas complete VA Form 10-7959f-1 to enroll in the Foreign Medical Program.

b. Healthcare providers complete VA Form 10-7959f-2 to submit claims for payments or reimbursement of expenses relating to veterans living or traveling overseas (except for the Philippines) with service-connected disability. VA will accept provider's generated billing statement, Uniform Billing—Forms (UB) 04, and Medicare Health Insurance Claims Form, CMS 1500 for payments or reimbursements.

Affected Public: Individuals or households.

Estimated Total Annual Burden:

a. Foreign Medical Program, VA Form 10-7959f-1—110 hours.

b. Claim Cover Sheet, VA Form 10-7959f-2—3,652 hours.

Estimated Average Burden per Respondent:

a. Foreign Medical Program, VA Form 10-7959f-1—4 minutes.

b. Claim Cover Sheet, VA Form 10-7959f-2—11 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Foreign Medical Program, VA Form 10-7959f-1—1,660.

b. Claim Cover Sheet, VA Form 10-7959f-2—19,920.

Dated: May 18, 2009.

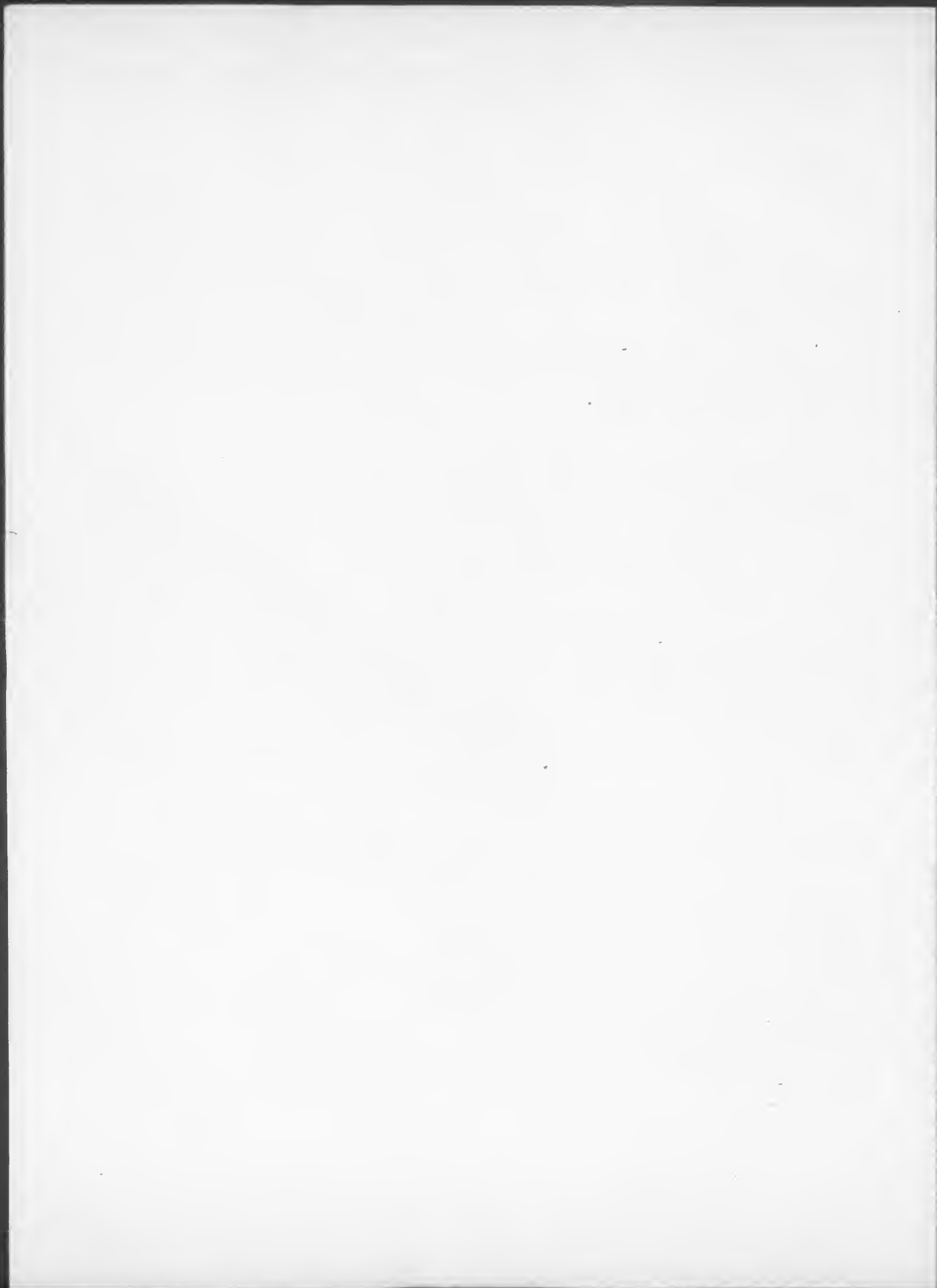
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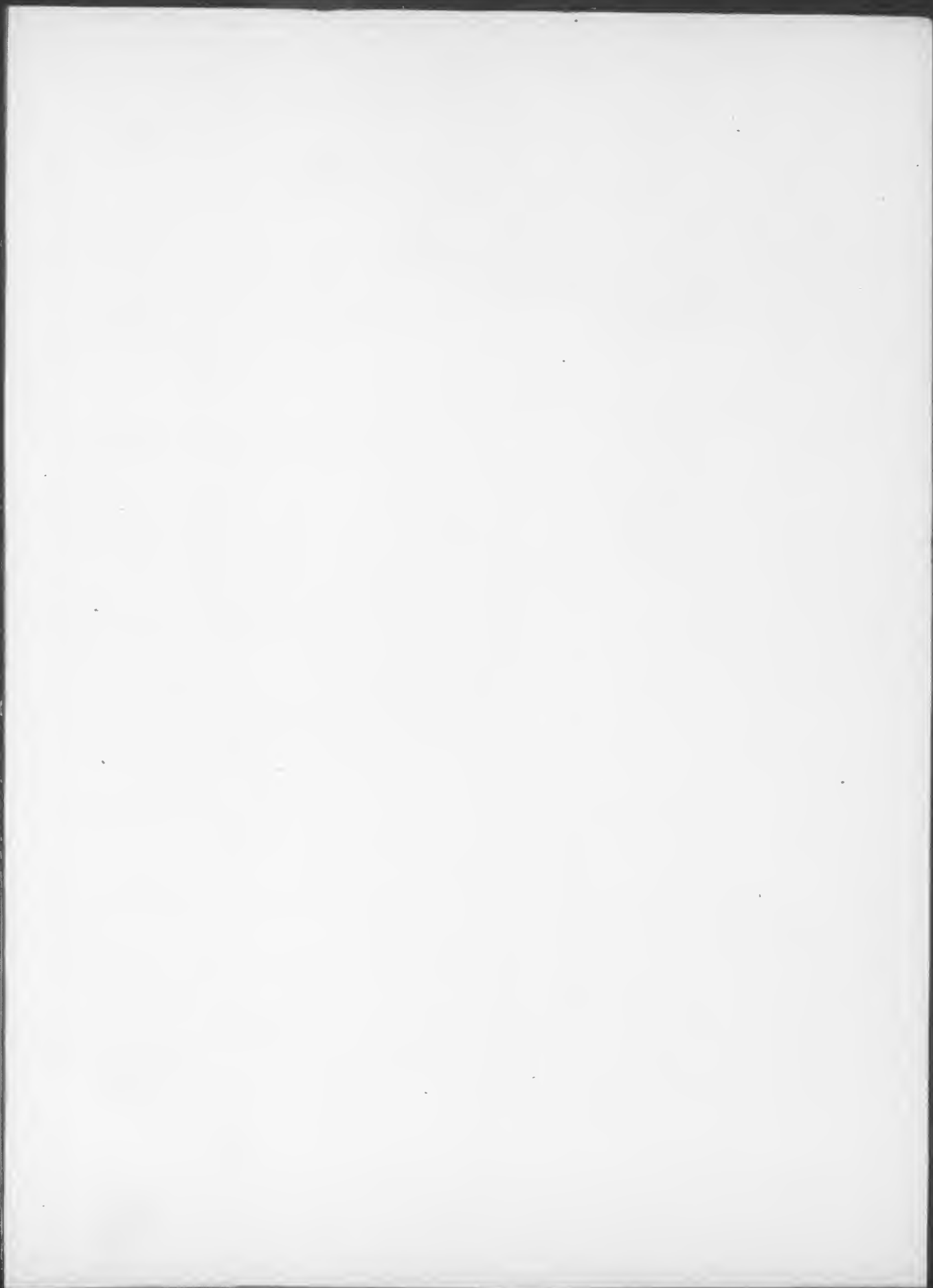
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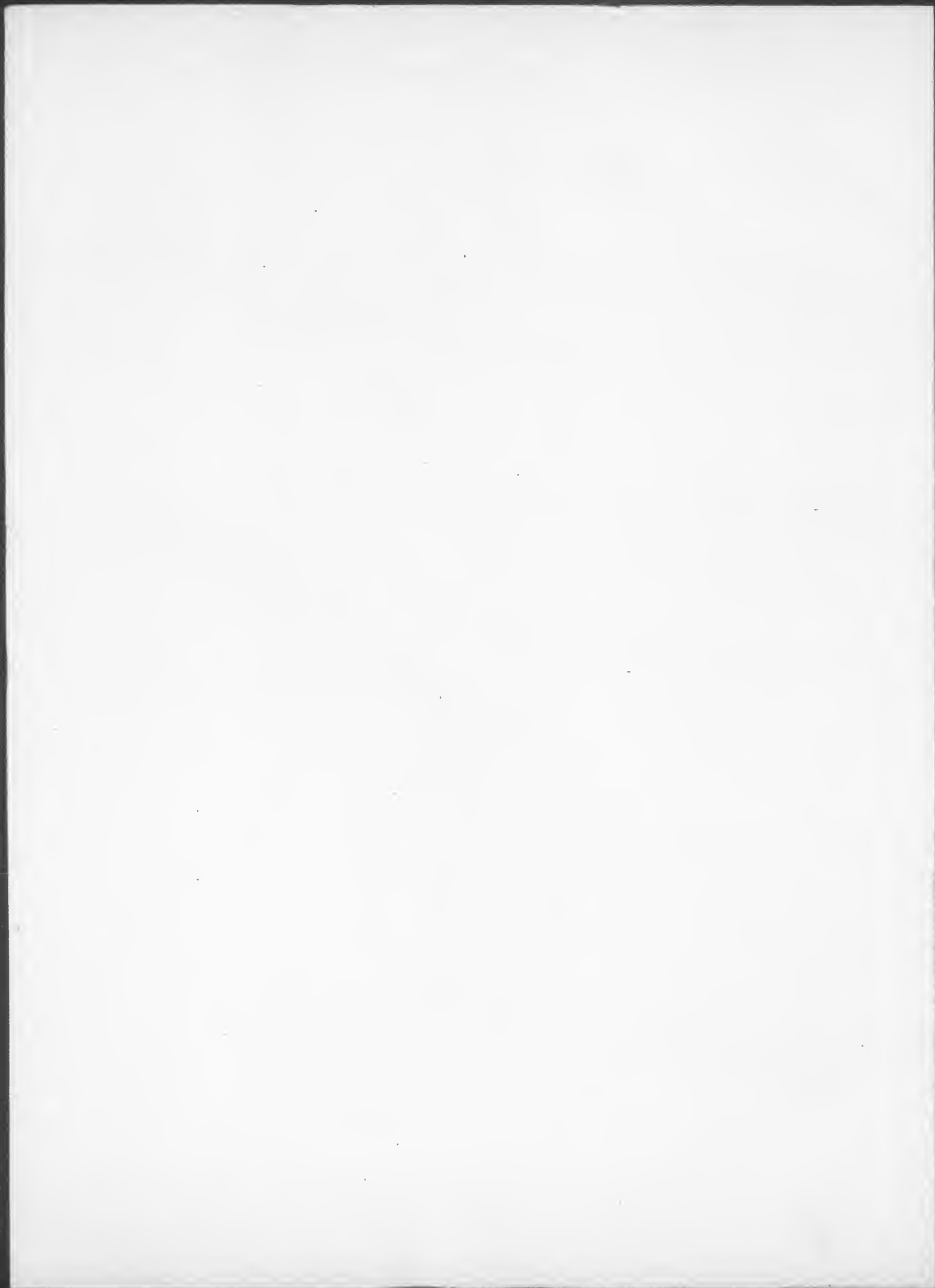
Program Analyst, Enterprise Records Service.

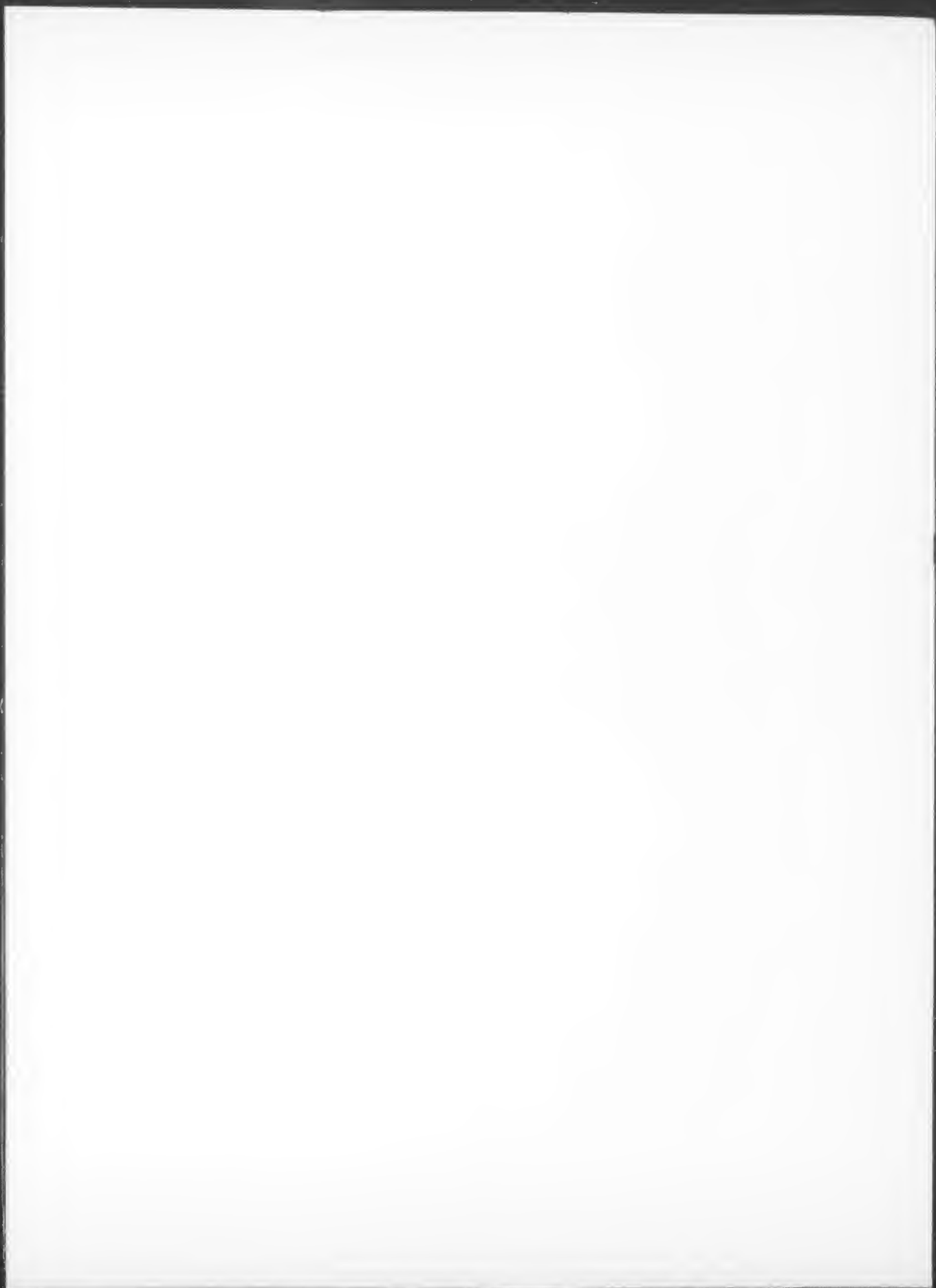
[FR Doc. E9-11944 Filed 5-21-09; 8:45 am]

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