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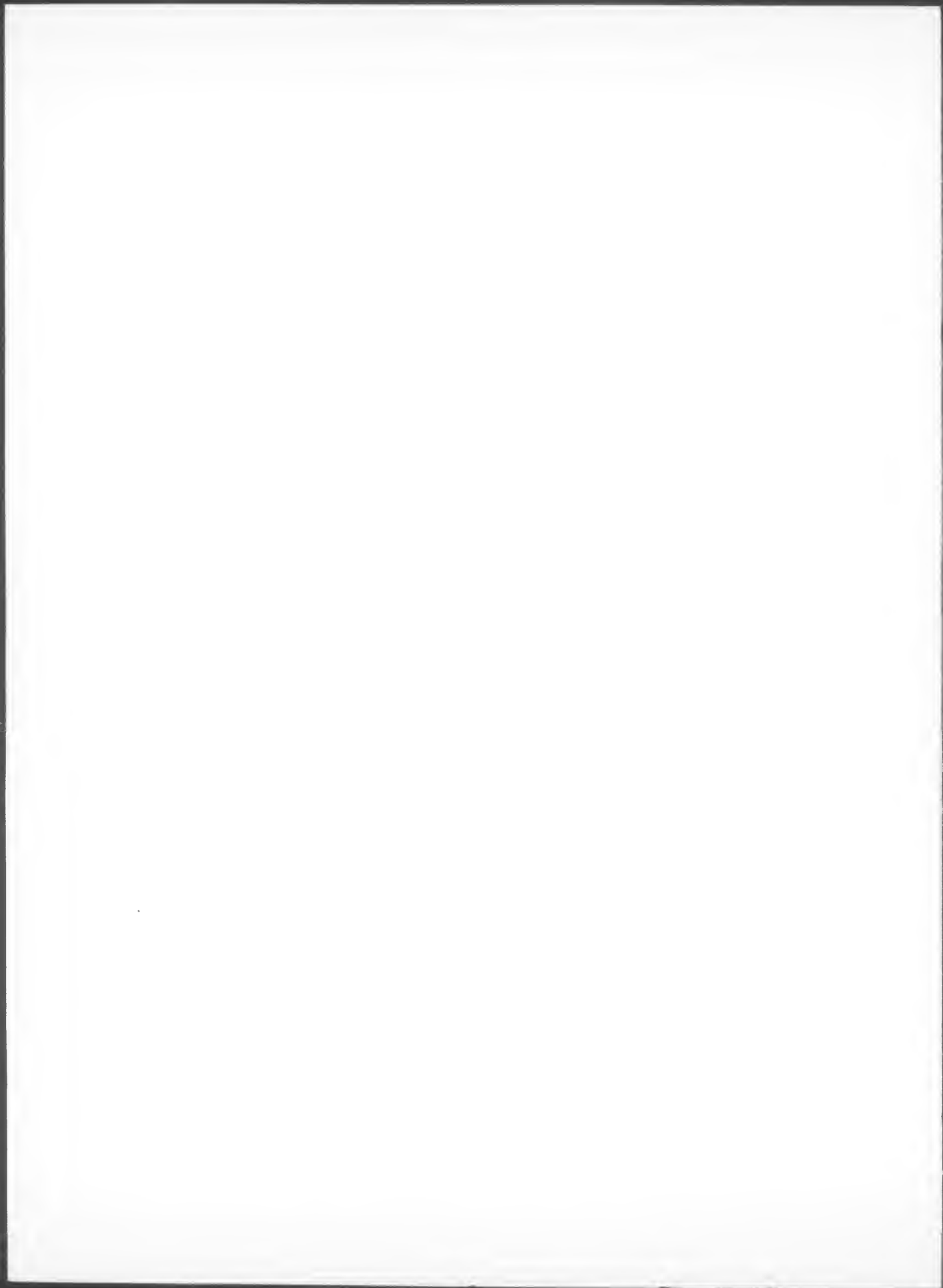
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1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal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

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

WHEN: Tuesday, February 24, 2009
9:00 a.m.-12:30 p.m.

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

RESERVATIONS: (202) 741-6008



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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

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7 CFR Part 5001

[FR Doc. E9-813]

RIN 0570-AA65

Rural Development Guaranteed Loans

AGENCIES: Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service, USDA.

ACTION: Delay of effective date; request for public comment on a further delay of the effective date.

SUMMARY: This document seeks public comment on a proposal to delay for 104 days the effective date of the interim rule, for Rural Development Guaranteed Loans, which was published on December 17, 2008. The interim rule establishes a unified guaranteed loan platform for the enhanced delivery of four existing Rural Development guaranteed loan programs—Community Facility; Water and Waste Disposal; Business and Industry; and Rural Energy for America Program, formerly known as Renewable Energy Systems and Energy Efficiency Improvement

Projects. The Department seeks comments on whether or not it should delay the effective date of the interim rule until June 1, 2009, in order to provide the Agency sufficient time to implement certain administrative aspects associated with the interim rule. For that reason, the Department is seeking comments on the merits of extending the effective date of the interim rule to June 1, 2009. In order to allow sufficient time for public comment on the Agency's proposal to further extend the effective date until June 1, 2009, this document extends the current effective date from February 17, 2009, to March 9, 2009, pursuant to the "good cause" clause under the Administrative Procedures Act (5 U.S.C. 553(b)(3)(B)).

DATES: The effective date of the interim rule, which was published on December 17, 2008 [73 FR 76698], delayed until February 17, 2009 [74 FR 2823], is further delayed until March 9, 2009.

Comments on extending the effective date to June 1, 2009, must be received on or before February 20, 2009.

ADDRESSES: Submit your comments by one of the following methods:

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

- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742.

- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Foore, Rural Development, Business and Cooperative Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 3201, Washington, DC 20250-3201; e-mail: Michael.Foore@wdc.usda.gov; telephone (202) 690-4730.

SUPPLEMENTARY INFORMATION: On January 16, 2009, Rural Development

delayed the original effective date of the interim rule from January 16, 2009, to February 17, 2009, because there was insufficient time to correct a technical error in the interim rule before the interim rule became effective on January 16, 2009.

Since then, Rural Development has identified several administrative actions, including providing the best guidance it can to its field staff on the interim rule, that it believes are necessary to occur prior to the effective date of the interim rule in order to ensure the successful implementation of the interim rule. Rural Development believes that extending the effective date is needed in order to provide Rural Development the necessary time to implement these administrative actions.

Because there is insufficient time between now and February 17, 2009, to solicit and consider public comment on Rural Development's proposed new effective date of June 1, 2009, the Agency is extending the effective date to March 9, 2009, without public comment. Rural Development is making this change because we believe we have good cause to do so, as is provided for under the Administrative Procedures Act (5 U.S.C. 553(b)(3)(B)), because:

1. The implementation of the interim rule on February 17, 2009, would create substantial legal and operational risks to the affected programs because the Agency needs more time to make changes to accounting and financial control information technology systems critical to the delivery of these programs and to prepare field staff. These actions cannot be completed by February 17, 2009.

2. This extension allows the public a reasonable opportunity to comment on this proposed extension of the effective date to June 1, 2009, and for the Agency to consider such comments before making the decision to June 1, 2009.

Lastly, consistent with the January 20, 2009, memo from the Assistant to the President and Chief of Staff, entitled "Regulatory Review," the extension will enable the Agency to finish the 60-day review described in this memo during this proposed extension of the effective date.

Dated: February 9, 2009.

William F. Hagy III,

Acting Deputy Under Secretary, Rural
Development.

[FR Doc. E9-3092 Filed 2-12-09; 8:45 am]

BILLING CODE 3410-XY-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA-2009-N-0665]

Oral Dosage Form New Animal Drugs; Tiamulin

AGENCY: Food and Drug Administration,
HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Novartis Animal Health US, Inc. The supplemental NADA provides for removal of a 250-pound weight restriction and the addition of a reproductive caution statement to labeling of tiamulin concentrate solution used in drinking water for the treatment of certain bacterial respiratory and enteric diseases in swine.

DATES: This rule is effective February 13, 2009.

FOR FURTHER INFORMATION CONTACT:

Cindy L. Burnsteel, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8341, e-mail: cindy.burnsteel@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408, filed a supplement to NADA 140-916 for DENAGARD (tiamulin) Liquid Concentrate used for the treatment of certain bacterial respiratory and enteric diseases in swine. The supplemental NADA provides for removal of a 250-pound weight restriction and the addition of a reproductive caution statement to labeling. The supplemental NADA is approved as of January 27, 2009, and 21 CFR 520.2455 is amended to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a

type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 520.2455, remove paragraph (d), redesignate paragraph (e) as paragraph (d), and revise newly redesignated paragraph (d)(2) to read as follows:

§ 520.2455 Tiamulin.

* * * * *

(d) * * *

(2) *Limitations.* Use as only source of drinking water. Prepare fresh medicated water daily. Withdraw medication 3 days before slaughter following treatment at 3.5 mg/lb and 7 days before slaughter following treatment at 10.5 mg/lb of body weight. Swine being treated with tiamulin should not have access to feeds containing polyether ionophores (e.g., lasalocid, monensin, narasin, salinomycin, or semduramycin) as adverse reactions may occur. The effects of tiamulin on swine reproductive performance, pregnancy, and lactation have not been determined.

Dated: February 10, 2009.

Steven D. Vaughn,

Director, Office of New Animal Drug
Evaluation, Center for Veterinary Medicine.

[FR Doc. E9-3131 Filed 2-12-09; 8:45 am]

BILLING CODE 4160-01-S

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans prescribes interest assumptions for valuing and paying certain benefits under terminating single-employer plans. This final rule amends the benefit payments regulation to adopt interest assumptions for plans with valuation dates in March 2009. Interest assumptions are also published on PBGC's Web site (<http://www.pbgc.gov>).

DATES: Effective March 1, 2009.

FOR FURTHER INFORMATION CONTACT:

Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

These interest assumptions are found in two PBGC regulations: The regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) and the regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044). Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates only the assumptions under the benefit payments regulation.

Two sets of interest assumptions are prescribed under the benefit payments regulation: (1) A set for PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by PBGC (found in Appendix B to Part 4022), and (2) a set for private-sector pension practitioners to refer to if they wish to

use lump-sum interest rates determined using PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) adds to Appendix B to Part 4022 the interest assumptions for PBGC to use for its own lump-sum payments in plans with valuation dates during March 2009, and (2) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology for valuation dates during March 2009.

The interest assumptions that PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.50 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent an increase (from those in effect for February 2009) of 0.50 percent in the immediate annuity rate and are otherwise unchanged. For private-sector

payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during March 2009, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this

amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 185, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
185	3-1-09	4-1-09	3.50	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 185, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
185	3-1-09	4-1-09	3.50	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 6th day of February 2009.

Vincent K. Snowbarger,

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. E9-3135 Filed 2-12-09; 8:45 am]

BILLING CODE 7709-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket No. USCG-2008-1051]

RIN 1625-AA00

Safety Zone; Perdido Regional Host Outer Continental Shelf Platform in the Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a safety zone around the Perdido Regional Host (PRH), a high-production, manned oil and natural gas platform. The platform needs to be protected from vessels operating outside the normal shipping channels and fairways. Placing a safety zone around the platform will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

DATES: This interim rule is effective February 13, 2009. Comments and related material must reach the Docket Management Facility no later than April 14, 2009.

ADDRESSES: You may submit comments identified by docket number USCG-2008-1051 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call Lieutenant Junior Grade Wes Geyer, Waterways Management Division, U.S. Coast Guard Sector Corpus Christi, (361) 888-3162. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

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

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-1051), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address or a phone number in the body of your document

so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2008-1051" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-1051 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector Corpus Christi office located at 555 N. Carancahua St., Suite 500, Corpus Christi, TX 78478 between 8 a.m. and 3:30 p.m., Monday through Friday except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold

one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is in the best interest of the public to ensure, to the extent practicable the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment: For those same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The safety zone established by this regulation is in the deepwater area of the Gulf of Mexico, located at 26°07'44" N, 094°53'53" W. For the purposes of this regulation, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. Shell Offshore, Inc. requested that the Coast Guard establish a safety zone around the Perdido Regional Host. The request for the safety zone was made due to the safety concerns for both the personnel aboard the platforms and the environment. Shell Offshore, Inc. indicated that the location, production level, and personnel levels on board the platform make it likely that an allision with the platform would result in a catastrophic event. Perdido Regional Host is a high production oil and gas drilling platform producing from 100,000 barrels of oil per day, 200 million standard cubic feet of gas per day, and is manned with a crew of

approximately 150 people. The Coast Guard has reviewed Shell Offshore Inc.'s concerns and agrees that the risk of allision to the platforms and the potential for loss of life and damage to the environment resulting from such an accident warrants the establishment of this safety zone. The regulation would significantly reduce the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico by prohibiting entry into the zone unless specifically authorized by the Captain of the Port Corpus Christi or a designated representative.

Because this safety zone could affect the routes of commercial fishermen and other vessels, we are interested in receiving comments as to how this may affect trade and fishing in the area before issuing a final rule.

Discussion of the Interim Rule

The Coast Guard is establishing a safety zone in the deepwater area of the Gulf of Mexico, located at 26°07'44" N, 094°53'53" W. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Corpus Christi or a designated representative. Persons or vessels requiring entry into or passage through must request permission from the Captain of the Port Corpus Christi or a designated representative. They may be contacted on VHF-FM Channel 13 or 16 or by telephone at (361) 939-6393.

Regulatory Analyses

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

Regulatory Planning and Review

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

This rule is not a significant regulatory action due to the location of the Perdido Regional Host—on the Outer Continental Shelf—and its distance from both land and safety fairways. Because of the location and distance of the Perdido Regional Host vessels traversing waters near the safety zone will be able to safely travel around the zone without incurring additional costs.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in Alaminos Canyon block 856.

This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: This rule will enforce a safety zone around a production platform that is in an area of the Gulf of Mexico not frequented by vessel traffic and is not in close proximity to a safety fairway. Further, vessel traffic can pass safely around the safety zone without incurring additional costs.

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

Assistance for Small Entities

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

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

about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation since implementation of this action will not result in any significant cumulative impacts on the human environment; does not involve a

substantial change to existing environmental conditions; and is consistent with Federal, State and/or local laws or administrative determinations relating to the environment.

An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—[SAFETY ZONES]

■ 1. The authority citation for Part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.845 to read as follows:

§ 147.845 Perdido Regional Host safety zone.

(a) *Description.* The Perdido Regional Host is located at position 26°07'44" N, 094°53'53" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: October 31, 2008.

J.H. Korn,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District.

Editorial Note: This document was received in the Office of the Federal Register on Tuesday, February 10, 2009.

[FR Doc. E9-3124 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2007-0074]

RIN 1625-AA87

Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule modifies several aspects of the permanent safety and security zones within the New York Captain of the Port Zone. This action modifies existing safety and security zones, consolidates and modifies safety and security zones currently found in separate regulations, and removes certain safety and security zones so as to better meet the safety and security needs of the New York and New Jersey port community.

DATES: This rule is effective March 16, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2007-0074 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2007-0074 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Waterways Management Division, Coast Guard Sector New York, 212 Coast Guard Drive, Staten Island, NY 10305 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LT Edward Munoz, Waterways Management Division, Coast Guard Sector New York, 718-354-2353. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 6, 2008, we published a notice of proposed rulemaking (NPRM) entitled Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone in the **Federal Register** (73 FR 24889). We received 15 letters commenting on the proposed rule. A public meeting was requested to discuss the proposed changes to the security zones around Liberty and Ellis Island. As discussed below, the proposed changes to the Liberty and Ellis Island security zones have been removed from this rulemaking therefore there was no longer a need to hold a public meeting.

Background and Purpose

On September 11, 2001, three commercial aircraft were hijacked and flown into the World Trade Center in New York City, and the Pentagon, inflicting catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks are likely. President Bush continued the national emergencies he declared following the September 11, 2001 terrorist attacks. See, Continuation of the National Emergency with Respect to Certain Terrorist Attacks (73 FR 51211, August 28, 2008); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism (73 FR 54489, September 18, 2008). The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is endangered by disturbances in international relations that have existed since the 2001 terrorist attacks and such disturbances continue to endanger such relations. Executive Order 13273 of August 21, 2002, further amending Executive Order 10173, as amended, Prescribing Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States (67 FR 56215, September 3, 2002).

Following the September 11, 2001 attacks, we published a temporary final rule (66 FR 51558, October 10, 2001) that established a temporary regulated navigation area, and safety and security zones in the New York Marine Inspection and Captain of the Port New York Zones. These measures were taken to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts. That temporary final rule was subsequently revised (67 FR 16016, April 4, 2002; 67 FR 53310, August 15, 2002) to extend its effective period through December 31, 2002.

On November 27, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone" in the **Federal Register** (67 FR 70892). The NPRM proposed to revise safety and security zones around designated vessels to include specific regulations for Liquefied Hazardous Gas (LHG) vessels and Designated Vessels and to establish Safety and Security Zones at Indian Point Nuclear Power Station, U.S. Coast Guard Cutters and Shore Facilities, commercial waterfront facilities, Liberty and Ellis Islands, bridge piers and abutments, overhead power cable towers, tunnel ventilator and the New York City Passenger Ship Terminal, Hudson River, NY. We received no letters commenting on the proposed rule. No public hearing was requested and none was held. On January 22, 2003, we published a final rule entitled "Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone" in the **Federal Register** (68 FR 2886). That rule established permanent safety and security zones at the locations above.

In the NPRM associated with this final rule, the Coast Guard (USCG) proposed 11 distinct changes to the current safety and security zone regulations in 33 CFR part 165 to improve maritime security and reduce unnecessary burdens imposed by current security zones. The proposals are as follows:

Disestablishment of 33 CFR 165.160: Safety and security zones around LHG Vessels, LHG Facilities, and Designated Vessels are currently codified in 33 CFR 165.160. The NPRM proposed, and this final rule revises and relocates each of these § 165.160 provisions to a single New York Marine Inspection Zone and Captain of the Port safety and security zone regulation found at 33 CFR 165.169. This regulatory change will consolidate similar regulations for the benefit of enforcement authorities and the regulated public.

Commercial Waterfront Facilities: As discussed earlier in this preamble, the safety and security zones around commercial waterfront facilities were made permanent by publication of a final rule in the **Federal Register** on January 22, 2003. This measure provides safety and security zones for, "all piers, wharves, docks and similar structures to which barge, ferry or other commercial vessels may be secured" (see, 33 CFR 165.169(a)(3)). These measures were deemed appropriate based on the threat and risk analyses available to the Captain of the Port at the time. The notice of proposed rulemaking for that

regulatory action was published in the **Federal Register** on November 27, 2002 (67 FR 70892), in preparation for the expiration of the temporary safety and security zone regulations on December 31, 2002.

On November 25, 2002, President George W. Bush signed into effect Public Law 107-295, the Maritime Transportation Security Act (MTSA) of 2002, which required the Secretary of the Department in which the Coast Guard is operating to issue an interim rule as a temporary regulation to implement the Port Security Section of the Act. To meet this requirement, on July 1, 2003, the Coast Guard published six interim rules in the **Federal Register** (68 FR 39240, 39284, 39292, 39315, 39338, and 39353). To determine the applicability of these regulations to waterfront facilities, the Coast Guard conducted an exhaustive, multi-tiered risk analysis. The details of this assessment can be found in the "Applicability of National Maritime Security Initiatives" section of the interim rule titled "Implementation of National Maritime Security Initiatives" (68 FR 39240, July 1, 2003).

On October 22, 2003 the Coast Guard published a final rule, entitled "Facility Security" in the **Federal Register** (68 FR 60515), establishing permanent regulations for facility security at 33 CFR part 105. These MTSA regulations included specific measures for security at a particular group of waterfront facilities, based on the comprehensive risk-based assessment referenced above. Section 105.200 of 33 CFR requires owners or operators of these facilities to, among other things, designate Facility Security Officers (FSO) for facilities, develop Facility Security Plans (FSP) based on security assessments and surveys, implement security measures specific to the facility's operations, and comply with Maritime Security Levels. Additionally, 33 CFR 105.275 mandates that facilities subject to the MTSA must have the capability to continuously monitor, among other things, the facility's approaches on land and water, and vessels at the facility and areas surrounding the vessels.

A large number of areas that currently fall within the definition of Commercial Waterfront Facility under 33 CFR 165.169, and are thereby protected by a Coast Guard safety and security zone, are areas proposed for or currently designed to provide recreational and public waterway access. A great variety of piers, wharves, docks, and bulkheads, designed and utilized primarily as recreational areas are capable of accepting commercial vessels as currently defined in regulation, even

though such operations rarely, if ever, occur. Safety and security zones in these areas unduly restrict the general public's access, cause confusion as to which areas are regulated, and create significant, unwarranted enforcement burdens on Coast Guard and local law enforcement resources. Furthermore, Resolution 05-01 of the U.S. Coast Guard Commandant's Navigation Safety Advisory Council (NAVSAC), contained in the September 2005 NAVSAC Meeting Summary (available online at <http://homeport.uscg.mil>), recommended that the Coast Guard conduct a review of safety and security zones to ensure modification or removal of zones that unduly restrict commercial vessel operations or are no longer needed following enactment of the MTSA, 2002 regulations.

For these reasons, we are revising the language governing facility safety and security zones to remove the broad definition currently contained within the regulations, largely replacing it with the class of facilities determined to require additional security measures by the MTSA regulations developed for this purpose. This tailored class of commercial waterfront facilities would only include those facilities regulated by the MTSA facility security regulations codified in 33 CFR part 105 and those facilities designated as a "public access facility" under that definition in 33 CFR 101.105. For public identification purposes, all of these facilities are required to have signs posted along the shoreline, facing the water, indicating that there is a 25-yard waterfront security zone surrounding the facilities.

Liberty and Ellis Islands: The current 150-yard security zones around Liberty and Ellis Islands became effective on January 1, 2003, as enacted by a final rule entitled "Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone" published in the *Federal Register* (68 FR 2886, January 22, 2003). On October 1, 2003, the United States Department of the Interior's National Park Service requested the 150-yard security zones around Liberty and Ellis Islands, currently found in 33 CFR 165.169(a)(4), be expanded to 400 yards. Additionally, they requested that all recreational vessels and other watercraft be prohibited from anchoring in the area surrounding Liberty and Ellis Islands or at least be restricted to anchoring no closer than 1,000 yards from the islands. They reported that the high volume of boat traffic still authorized to operate in close proximity of the two islands made it difficult to provide a secure environment for these historic sites and

the public that routinely visits them. This request was submitted via the U.S. Park Police (USPP) who is responsible for security at the two islands.

On November 25, 2003, the Coast Guard met representatives from the USPP to discuss their proposal. The Coast Guard and USPP agreed upon the following conditions for the proposed expansion of the boundary of the safety/security zone from 150 yards to 400 yards:

- Marine events that have normally been held within 400 yards of either island would be allowed to continue after the marine event application is approved by the Captain of the Port New York.
- No new marine events would be authorized without collaborative approval of both the USCG and USPP.
- The USPP would provide unclassified information regarding their blast radius data and security information for public dissemination.
- The USPP would share technology links with the Coast Guard Vessel Traffic Center New York to enhance security.

• An additional meeting would be scheduled with annual event sponsors and sailing schools to discuss these issues and to provide alternative locations for their vessels and events.

On December 4, 2003, the Coast Guard met with the USPP, Manhattan Sailing Club, Manhattan Sailing School, and the Sandy Hook Bay Catamaran Club. The Jersey City Office of Cultural Affairs and the Liberty World Challenge sponsor were invited but could not attend. Over 50 marine events are held each year within the proposed expanded security zone. Six event sponsors hold most of these events and the majority of these are sponsored by the Manhattan Yacht Club in the form of weekly sailing regattas.

The USPP reiterated their request for the zone expansion to 400 yards due to a threat assessment conducted by the U.S. Department of Defense's Defense Threat Reduction Agency. The analysis concluded that an explosion from a vessel within close proximity to Liberty or Ellis Island would result in loss of life and injury to visitors and staff on the islands as well as severe structural damage to the Statue of Liberty and numerous historic buildings on Ellis Island. These include the American Family Immigration History Center containing manifests of 25 million immigrants, passengers, and crew members who entered New York Harbor between 1892 and 1924 and 30 other remaining buildings planned for reuse. The plan is available online at: <http://parkplanning.nps.gov/projectHome>.

[cfm?parkID=277&projectId=18591](http://parkplanning.nps.gov/projectHome). Information from the Defense Threat Reduction Agency assessment is available in the docket available at the location under **ADDRESSES**. The proposed expanded security zone would greatly reduce the potential impacts of such a blast and improve the USPP's response capability to incursions of the security zone.

The Coast Guard and USPP agreed to the following conditions pending establishment of the proposed expanded security zone:

- Annual events would be authorized upon review, and approval of, the sponsor's marine event application. This review would additionally include a review of all personnel and equipment participating within the zone using the measures for granting security zone access at all other security zones within the Captain of the Port Zone.
- Only new events with a regional or national significance would be authorized and only after both the Coast Guard and USPP approve the request.
- The Statue of Liberty Race, sponsored by the Sandy Hook Bay Catamaran Club, would be required to place buoys at the site of the current 150-yard security zone to help participants maintain a distance of 150 yards from the Islands during the race.

At the December 4, 2003 meeting, and in a follow-up letter dated December 8, 2003, the Manhattan Sailing Club Commodore questioned the effectiveness of the proposed zone in a realistic threat situation. He believed the current 150-yard security zones were to be temporary measures and was adamantly opposed to their expansion. He stated that the protected cove north of Ellis Island is critical to all local sailing school operations as it provided the only waters in the harbor out of the commercial shipping lanes with enough depth and protection from the current. He stated that the proposed expanded zone would force recreational vessels into the shipping channels and "significantly impact the quality of life" of NYC recreational sailors. He also stated that security measures had been reduced at the Holland Tunnel and the AT&T Building while heavy barriers at the New York Stock Exchange had been replaced with attractive iron railings and that there had been no new justification to put forth any expansion of the security zones in New York Harbor. Additionally, he asked why there is any security zone around Ellis Island as it is not the same target threat and does not have the same security needs.

In a subsequent follow-up letter dated December 18, 2003, the Commodore

stated that the sailing club held an emergency Board of Directors meeting on December 15, 2003. It was the Board's opinion that the security zones should not be increased as they had not seen any evidence explaining how an increase would be in the best interests of the harbor. Along with the previously stated remarks they also stated the club had invested more than \$500,000 in their mooring barge to the north of Ellis Island for club activities and that any expansion of the security zone or rescinding of the Federally Designated Anchorages would make it no longer feasible to moor their sailing barge in the cove and would jeopardize their ability to generate income to repay construction loans.

On December 29, 2003, the USCG responded to the two letters submitted by the Manhattan Sailing Club. The Coast Guard stated that the disestablishment of the current 150-yard security zones around Liberty and Ellis Islands were not feasible at that time and would likely remain in effect for an undetermined time.

On January 14, 2004, the USCG notified the USPP, in consultation with the First Coast Guard District Homeland Security Office, that the USCG would propose the security zones be expanded around Liberty and Ellis Islands out to 400 yards, with the exception that the northern boundary of Ellis Island would only extend 250 yards, being that from a maritime Homeland Security perspective Ellis Island is not as great a security risk as is the Statue of Liberty. The increase of 100 yards on the north side of Ellis Island would allow for the continued recreational use of the Manhattan Sailing Club barge by the sailing community.

On January 27, 2004, the USPP submitted a letter to the USCG reiterating their request for a 400-yard security zone around Liberty and Ellis Islands due to the Blast Analysis discussed above. The USPP also confirmed they would notify the USCG regarding special events that involve either Liberty or Ellis Island when additional ferries would be in use.

On February 24, 2004, the Coast Guard received another letter from the USPP. The letter stated that although the 400-yard zone around both islands was preferred, the USPP felt the 250-yard zone north of Ellis Island was acceptable and would hopefully satisfy the concerns of all interested parties. The USPP agreed to host a public meeting with interested members of the maritime community to discuss the security zone expansion around Liberty and Ellis Island, and provide the Coast Guard with final recommendations

following that meeting. Subsequently, the USPP became involved in extensive shore side security improvements surrounding the reopening of Liberty Island to visitors, and the public meeting concerning waterside security enhancements was postponed pending final resolution of those more immediate security concerns.

In September 2005, presentations concerning proposed changes to the current security zones were given to the New York/New Jersey Area Maritime Security Committee and the Harbor Safety, Navigation and Operations Committee. Other stakeholders in the maritime community were also reengaged. Following a meeting between the Coast Guard, the USPP, and the Department of Defense (DoD) Threat Reduction Agency, new security zone dimensions were developed that balanced the security requirements of the USPP with the desires of the maritime community.

As an outcome of these discussions, the Coast Guard proposed to merge the existing Liberty and Ellis Island security zones, concurrent to an expansion of the Liberty Island Zone, in order to provide the minimum distances required to ensure the protection of these national monuments.

Following publication of the NPRM, written comments were received regarding the proposed expansion of the Liberty and Ellis Island security zones and concern was expressed as to the impact on recreational boaters and the effects that the expanded zones would have on navigation safety. Based on comments received we are withdrawing our proposed expansion of the Ellis and Liberty Island security zones as outlined in the Discussion of Comments and Changes section and have removed the Liberty and Ellis Island Security Zone expansion provision from this final rule. The current Liberty and Ellis Island security zone remains in effect.

NYC Passenger Ship Terminal: The NYC Passenger Ship Terminal safety and security zones are currently codified at 33 CFR 165.169(a)(6). The area covered by the current safety and security zone extends approximately 250 yards from portions of the facility. However, this zone is only enforced when cruise ships are present.

In the interest of protecting this high-interest facility, we are revising the regulation to make this zone subject to enforcement at all times. In so doing, and to provide for the safe use of the waterway by all parties, the dimensions of this permanent zone are significantly reduced to reflect the current protection needs of the Passenger Ship Terminal.

The revision reduces the zone size to extend up to 150 yards into the waterway. The northern boundary of the zone is being moved from Pier 96 south to approximately 50 yards north of Pier 92, opening a 50-yard band of waterway for public access to the south face of Pier 94. The southern boundary is being moved north from Pier 84 to include a 25 yard perimeter south of the Intrepid Sea, Air, and Space Museum, opening a 50-yard band of waterway for public access north of Pier 84.

A permanently activated zone in this area is necessary, in part, due to the varied mooring configurations of cruise ships parallel to and inside the Passenger Ship Terminal Piers. Vessels transiting on the Hudson River cannot always easily judge whether ships are berthed, and thereby whether the current safety and security zone is activated and therefore subject to enforcement. This fact also justifies the maintenance of a zone greater than the 25-yard MTSA Facility zone, sufficient for other cruise ship berthing facilities at times where no cruise ship is present. A permanent zone also allows the FSO at the Passenger Ship Terminal to work with the Captain of the Port to remove suspicious vessels, even when no cruise ship is at berth.

LHG Vessels: Safety and security zones for LHG Vessels are currently codified in 33 CFR 165.160. For reasons discussed elsewhere in this preamble, we are moving these regulations with revisions to the regulations found at 33 CFR 165.169. Revisions are made to provide a detailed definition of "LHG Vessel," and to ensure greater standardization of and compliance with the regulations. The language regarding LHG Facilities is being removed, as these facilities will continue to be protected by safety and security zones contained in 33 CFR part 105 (MTSA, 2002 regulations).

Cruise ships: Though no specific regulation exists within the New York Captain of the Port Zone for cruise ships, 33 CFR 165.160 does have provisions for Designated Vessels, among which are vessels with a passenger capacity of over 500. Following many other Captains of the Port throughout the Nation, we are incorporating specific language for the protection of the many cruise ships and high capacity passenger vessels that visit the Port of New York and New Jersey.

The current Designated Vessel safety and security zones require the Captain of the Port to specifically designate a particular vessel to be covered by a Designated Vessel safety and security zone. This rule defines the term "cruise

ship" so as to include that class of vessel readily identifiable to the regulated public as such. This rule also renders the safety and security zones activated and subject to enforcement at all times when such a vessel is within the navigable waters of the United States (see 33 CFR 2.36(a) to include the 12 NM territorial sea) in the New York Captain of the Port Zone (33 CFR 3.05-30). This safety and security zone is necessary to provide security protection for cruise ships at berth in locations where full, permanent security zones around the facilities would be overly restrictive when no cruise ship is present, and thereby not justified in the interest of the Port as a whole. This change decreases the size of the security zone around the NY Passenger Ship Terminal when passenger ships are not docked there as a reduced zone is sufficient to provide the necessary facility security. The reduced size of the zone allows for greater movement of vessels in a highly congested area. Similarly, the provision of a security zone around cruise ships within the New York Captain of the Port Zone removes the need to maintain a security zone around the Brooklyn Cruise Terminal on Buttermilk Channel when cruise ships are not present. Otherwise, to establish a similar permanent security zone around the Brooklyn Cruise Terminal on Buttermilk Channel would effectively close down 75 percent of the 500-foot-wide 40-foot project channel. This would force deeper draft vessels to transit between Governors Island and The Battery in Manhattan enroute to facilities on the East River and create numerous close quarters passing situations between the ships and commuter ferry operations in the vicinity of The Battery.

Additionally, vessels calling on the Red Hook Container Terminal, adjacent to the Brooklyn Cruise Terminal, would then need to navigate around Dimond Reef which is not considered a safe navigational practice for deep draft vessels by any federal or state licensed pilot organization.

Designated Vessels: Currently, under the regulations found at 33 CFR 165.160, the Captain of the Port may designate certain vessels to receive a 100-yard safety and security zone. For reasons discussed elsewhere in this preamble, we are revising these regulations and moving them to 33 CFR 165.169(a)(15). The regulation will limit the type of vessels that may be so designated to small passenger vessels (authorized to carry more than 400 passengers and less than 200 feet in length), vessels carrying foreign dignitaries or government officials

requiring protection, vessels carrying petroleum products, chemicals or other hazardous cargo, including, but not limited to, cargo ships and barges carrying bridge spans and large shore side container cranes that significantly increase the length or beam of the vessel and decrease its maneuverability. We are removing the existing language regarding Designated Vessels as being certificated to carry 500 or more passengers as these types of vessels will be covered in the regulation for Cruise Ships. These Designated Vessels are readily recognizable either by the large crane or bridge structures onboard or, for the vessels carrying flammable or hazardous cargo, by the flying of the Bravo flag (red international signal flag) from the outermost halyard (above the pilot house) where it can most easily be seen. The Captain of the Port will also notify the maritime community of periods during which this zone is being enforced by methods in accordance with 33 CFR 165.7. Similar to the rule for cruise ships, these safety and security zones will be activated and subject to enforcement at all times when such a vessel is within the navigable waters of the United States in the New York Captain of the Port Zone.

134th Street Pipeline Metering and Regulating Station: Although not specifically regulated under MTSA 2002, we are creating a specific 25-yard security zone surrounding the 134th Street Pipeline Metering and Regulating Station Pier. There is currently a security zone around this location that was established under a regulation for commercial waterfront facilities found in 33 CFR 165.169(a)(3). Under a change to that regulation discussed earlier in this preamble, that coverage would be terminated as this pipeline station does not currently fall under the provisions of 33 CFR part 105 (MTSA Facilities). A security zone at this facility, which is primarily regulated by the Federal Energy Regulatory Commission, is necessary to ensure the continued safety and security of navigation and the large number of industrial, commercial, and residential customers that would be affected by damage to this pipeline.

The Captain of the Port will be assisted in monitoring the safety and security zone by the pipeline operating company and the New York City Police Department. The security zone establishes unambiguous Federal regulation to allow the Captain of the Port to assist pipeline security personnel and NYPD in preventing unauthorized waterside access to this facility.

Naval Weapons Station Earle: The Coast Guard first established a Security

Zone restriction in this location on July 1, 1972 (under 33 CFR 127.301, 37 FR 16675, Aug. 18, 1972). This regulation was subsequently re-designated by the Coast Guard on June 30, 1982 (33 CFR 165.301, 47 FR 29659, July 8, 1982) and, again on July 6, 1987 (52 FR 25216). This security zone is currently codified at 33 CFR 165.130.

On July 28, 2003, the United States Army Corps of Engineers created a Restricted Area around this Naval installation, published at 33 CFR 334.102 (68 FR 37970, June 26, 2003). The Army Corps of Engineers' Restricted Area covers a portion of the waterway slightly larger than the current Coast Guard Security Zone. We are modifying the Coast Guard Security Zone found at 33 CFR 165.130 to align with that of the Army Corps of Engineers to provide unambiguous concurrent enforcement capability for both Coast Guard and DoD patrol craft.

Additional Consistency Modifications: We are tailoring the scope of specific safety and security zones to optimize effective enforcement and to harmonize these zones with the assessment of facilities covered by 33 CFR part 105 (MTSA Regulations) that warrant increased security protection. In addition, the safety and security zones described in 33 CFR 165.160 are being revised and moved into 33 CFR 165.169 to consolidate similar safety and security zone-related regulations within one New York Marine Inspection and Captain of the Port Zone safety and security zone regulation. Once consolidated, the existing regulations in 33 CFR 165.160 are being removed.

Waterfront Heliports: Additionally, although not specifically regulated under MTSA 2002, we are establishing 25-yard security zones surrounding the four waterfront heliports currently operating at Manhattan Island and Jersey City, New Jersey by creating a separate regulation for these heliports in 33 CFR 165.169(a)(17). These security zones are currently covered under regulations for commercial waterfront facilities in 33 CFR 165.169(a)(3). However, under the changes to that regulation discussed above, the coverage would inadvertently be terminated because not all heliports currently fall under the provisions of 33 CFR part 105 (MTSA Facilities). Therefore, this section is necessary to ensure security zones for these facilities remain in place as although the waterfront heliports are primarily regulated by the Transportation Security Administration, the security zones are necessary to ensure the continued safety and security of both general aviation as well as

recently-approved and planned commuter flight services.

The Captain of the Port will be assisted in monitoring the safety and security zones around these heliports by the FSO or other person responsible for security at each facility. The security zone will establish unambiguous Federal regulation to allow the Captain of the Port to assist facility security personnel in preventing unauthorized waterside access to these facilities.

Discussion of Comments and Changes

The National Oceanic and Atmospheric Administration (NOAA) submitted two recommended navigation chart corrections. One correction is to one position of the Ellis Island security zone that is not changing in this Final Rule. The original Coast Guard security zone at Ellis Island was published in the Code of Federal Regulations as being within 150 yards of the island with no listed positions. NOAA published this security zone on the respective charts using their more accurate charting software. Due in part to the public comments received we are withdrawing the expansion of the Ellis and Liberty Islands security zones from this rulemaking for further consideration. The second chart correction submitted by NOAA was for the Naval Weapons Station Earle, NJ security zone in Sandy Hook Bay. We are revising our final rule to list the same positions published by the U.S. Army Corps of Engineers (ACOE) in 33 CFR 334.102 as our intention was always to have the security zone correspond to the ACOE charted Restricted Area.

One commenter supported the establishment of the 25-yard security zones around the waterfront heliports.

One commenter requested that the 100-yard security zones around Liquefied Hazardous Gas (LHG) vessels, Cruise Ships, and Designated Vessels be revised to allow for vessels constrained by their draft to be authorized to transit through the security zone as long as they remain within the navigable channel, maintain the maximum safe distance from the vessel and do not stop or loiter within the zone unless the security zone is broadcast over VHF radio and is accompanied by a patrol vessel displaying a flashing blue light as required by 33 CFR 88.11. The commenter noted that this is currently authorized for vessels transiting past 33 CFR Part 105 Facilities and Bridge Piers and Abutments within the Coast Guard Sector New York area of responsibility. Similar conditions also apply to the Naval Vessel Protection Zones codified at 33 CFR 165.2025.

We currently issue a marine broadcast by VHF radio for all LHG vessel transits, provide Coast Guard escort vessels for the LHG vessel, and do not authorize vessels to transit through the security zone due to the nature of the product carried and the extensive damage to the port that could be caused by an attack on the vessel. This has been the Coast Guard's policy and procedures since before the 9/11 terrorist attacks and we will not further relax these conditions at this time. The width of the Federal Channels and waterways that cruise ships currently transit through are 1,000 feet wide in Buttermilk Channel, 2,000 feet wide in Anchorage Channel, and 2,700 feet wide in the Hudson River. There is sufficient distance for the commenter's smaller vessels to transit around the cruise ships in these channels or to transit around Governors Island for vessels that do not want to transit through Buttermilk Channel when cruise ships are transiting through, or are docked, at the adjacent Brooklyn Cruise Terminal. Vessels that are constrained by their draft from transiting outside of these channels will still be required to maintain a distance of 100 yards from all cruise ships and should check in with VTS NY on VHF CH 11, 12, or 14 for current restrictions if they are not already Vessel Movement Reporting Users.

The Coast Guard agrees with this comment in regards to Designated Vessels (33 CFR 165.169(a)(15)). The final rule is changed from the NPRM to state that vessels that are constrained by their draft from leaving the channel may transit through the zone for the sole purpose of direct and expeditious transit through the zone so long as they remain within the navigable channel, maintain the maximum safe distance from the Designated Vessel, and do not stop or loiter within the zone.

This transit waiver was inadvertently deleted from the revised Part 105 Facilities regulation in 33 CFR 165.169(a)(3) in this Notice of Proposed Rulemaking. This was not the Coast Guard's intention and the waiver for vessels to transit through the 25-yard security zone surrounding Part 105 facilities is being inserted in the final rule as 33 CFR 165.169(a)(3)(iii)(C).

We received nine comments from Human Powered Vessel (HPV—Canoes and Kayaks) organizations and individuals and two comments from yacht clubs and individuals regarding the expansion of the security zones around Ellis and Liberty Islands. The comments raised the concerns of HPVs and sailboats being forced to increase the amount of time they navigate in the Federal Anchorage Channel due to the

security zone expansion. This would create increased interactions between these recreational boaters in Anchorage Channel with ships, tugs and barges, the Staten Island Ferry and other commuter ferries. Additionally, the HPV comments were concerned with not being able to transit between Ellis and Liberty Islands or along the Liberty State Park shoreline. They stated these are protected waters where they often rest prior to re-crossing Anchorage Channel. Many of the comments also questioned the need for the current 150-yard security zone 7 years after the terrorist attacks. In light of the public comments received we are changing the final rule from the NPRM by withdrawing the expansion of the Ellis and Liberty Islands security zones from this rulemaking. If changes to the current Ellis and Liberty Islands 150-yard security zones are proposed in the future, a new Notice of Proposed Rulemaking will be published in the *Federal Register*.

Lastly, pending further review, we have removed the portions of this rule which proposed that individuals submit specific information to the Coast Guard Captain of the Port, a designated representative or designated on-scene patrol personnel as a method of obtaining entry into the safety and security zones identified in § 165.169. Individuals requesting entry into the safety and security zones identified in § 165.169 will still be required to gain authorization for entry into the zones prior to entering the same, and as such they should ensure that they comply with this final rule. After completing review we may amend this final rule in a manner that will identify the specific information required to gain entry into the safety and security zones in § 165.169.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This finding is based on the following facts. Access to all zones modified within the regulation may be granted through coordination with the Captain of the Port. With regard to the changes to the Commercial Waterfront Facilities, this rule reduces the number of safety and security zones around commercial waterfront facilities, thereby reducing the level of regulatory impact. The proposed expansion of the Ellis and Liberty Islands security zones in the NPRM has been withdrawn in this Final Rule. With regard to the changes for the New York City Passenger Ship Terminal safety and security zone, the rule reduces the size of the regulated area. With regard to the changes for the inclusion of LHG Vessels, the regulation implements less restrictive regulations for those currently in effect. With regard to the addition of regulations relating to cruise ships, the rule relocates the current regulation regarding cruise ships contained in 33 CFR part 169.160 to the new section with modifications to the definition. This change does not create a new type of security zone; rather, it moves an existing regulation to another section of the regulations, thereby creating no significant change for regulated entities. With regard to the changes for the inclusion of the 134th Street Pipeline Metering and Regulating Station pier, vessels will be able to transit around the zone with little to no increase in transit time. With regard to the changes for the modification to the Security Zone at Naval Weapons Station Earle, Sandy Hook Bay, New Jersey, this regulation only aligns restrictions applying to a portion of the waterway already restricted by other Federal regulation.

Small Entities

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

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

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in portions of the New York Captain of the Port Zone deemed by the Captain of the Port to present an unacceptable level of

risk to the safety and security of the general public. However, these safety and security zones would not have a significant economic impact on a substantial number of small entities for the reasons discussed in the Regulatory Planning and Review section above.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This regulation changes current safety and security zones and disestablishes other safety and security zones; therefore, paragraph (34)(g) of the instruction applies.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.130, revise paragraph (a) to read as follows:

§ 165.130 Sandy Hook Bay, New Jersey—security zone.

(a) *Naval Ammunition Depot Piers.* The navigable waters within the following boundaries are a security zone: A line beginning on the shore at

40°25'55.6" N, 074°04'31.4" W; thence to 40°26'54.0" N, 074°03'53.0" W; thence to 40°26'58.0" N, 074°04'03.0" W; thence to 40°27'56.0" N, 074°03'24.0" W; thence to 40°27'28.5" N, 074°02'10.4" W; thence to 40°26'29.5" N, 074°02'51.2" W; thence to 40°26'31.4" N, 074°02'55.4" W; thence to 40°25'27.1" N, 074°03'39.7" W; thence northwest along the shoreline to the beginning point.

* * * * *

§ 165.160 [Removed]

■ 3. Remove § 165.160.

§ 165.169 [Amended]

- 4. In § 165.169—
- a. Revise paragraphs (a)(3), (a)(6), and (a)(12) to read as follows;
 - b. Add paragraphs (a)(13) through (a)(17) to read as follows; and
 - c. Remove paragraphs (b)(3) through (b)(5), and (c):

§ 165.169 Safety and Security Zones: New York Marine Inspection Zone and New York Captain of the Port Zone.

(a) * * *

(3) *Part 105 Facilities.* (i) *Definition.* For the purposes of this section, *Part 105 Facility* means any facility subject to the regulations contained in 33 CFR part 105, including those designated as "Public Access Facilities" as defined in 33 CFR 101.105. For public identification purposes, all of these facilities are required to have signs posted along the shoreline, facing the water, indicating that there is a 25 yard waterfront security zone surrounding the facilities.

(ii) *Location.* All waters within 25 yards of each Part 105 Facility. When a barge, ferry, or other commercial vessel is conducting transfer operations at a Part 105 Facility, the 25-yard zone is measured from the outboard side of the commercial vessel.

(iii) *Regulations.* (A) Vessels not actively engaged in passenger, cargo, provision, facility maintenance or inspection, bunker transfer operations, or docking or undocking operations, authorized in advance by the Facility Security Plan, Facility Security Officer or designated representative, must not enter within any part of a zone described in paragraph (a)(3) of this section without the express permission of the Coast Guard Captain of the Port, a designated representative or designated on-scene patrol personnel.

(B) Persons seeking Captain of the Port permission to enter within a particular zone for official business other than authorized passenger, cargo, provision, facility maintenance or inspection, bunker transfer operations or authorized docking or undocking

operations may request such authorization by contacting: Commander Coast Guard Sector New York, via the Sector Command Center (SCC), at: 212 Coast Guard Drive, Staten Island, NY 10305, or via fax to (718) 354–4125 or by contacting the Sector Command Center Duty Officer by phone at: (718) 354–4353.

(C) Vessels may transit through any portion of the zone that extends into the navigable channel for the sole purpose of direct and expeditious transit so long as they remain within the navigable channel, maintain the maximum safe distance from the Part 105 facility, and do not stop or loiter within the zone.

* * * * *

(6) *New York City Passenger Ship Terminal, Hudson River, NY.* (i) *Location.* All navigable waters of the Hudson River bound by the following points: From the point 40°46'09" N, 073°59'48.7" W on the seawall midway between Pier 92 and 94, thence northwest to approximate position 40°46'14" N, 074°00'00.9" W, approximately 125 yards northwest of Pier 92, thence southwest to approximate position 40°45'56.7" N, 074°00'15.3" W, approximately 150 yards west of Pier 86, thence east to the seawall between Pier 84 and Pier 86 at approximate position 40°45'49.6" N, 073°59'58.1" W (NAD 1983), thence northeast along the shoreline to the point of origin.

(ii) *Regulations.* Vessels not actively engaged in passenger, cargo, provision, facility maintenance or inspection, bunker transfer operations, or docking or undocking operations, authorized in advance by the Facility Security Plan, Facility Security Officer or designated representative, must not enter within any part of a zone described in paragraph (a)(6) of this section without the express permission of the Coast Guard Captain of the Port, a designated representative or designated on-scene patrol personnel. Persons seeking Captain of the Port permission to enter within the zone described in paragraph (a)(6) of this section for official business other than authorized passenger, cargo, provision, facility maintenance or inspection, bunker transfer operations or authorized docking or undocking operations may request such authorization by contacting: Commander Coast Guard Sector New York, via the Sector Command Center (SCC), at: 212 Coast Guard Drive, Staten Island, NY 10305, or via fax to (718) 354–4125 or by contacting the Sector Command Center Duty Officer by phone at: (718) 354–4353.

* * * * *

(12) *Approaches to New York, Atlantic Ocean.* (i) *Location.* All waters of the Atlantic Ocean between the Ambrose to Hudson Canyon Traffic Lane and the Barnegat to Ambrose Traffic Lane bound by the following points: 40°21'29.9" N, 073°44'41.0" W, thence to 40°21'04.5" N, 073°45'31.4" W, thence to 40°15'28.3" N, 073°44'13.8" W, thence to 40°15'35.4" N, 073°43'29.8" W, thence to 40°19'21.2" N, 073°42'53.0" W, (NAD 1983) thence to the point of origin.

(ii) *Enforcement period.* Enforcement periods for the zone in paragraph (a)(12) of this section will be announced through marine information broadcast or other appropriate method of communication and the zone is activated whenever a vessel is anchored in the area described in paragraph (a)(12)(i) or a Coast Guard patrol vessel is on-scene.

(iii) *Regulations.* (A) The area described in paragraph (a)(12) of this section is not a Federal Anchorage Ground. Only vessels directed by the Captain of the Port or his or her designated representative to enter this zone are authorized to anchor here.

(B) Vessels do not need permission from the Captain of the Port to transit the area described in paragraph (a)(12) of this section during periods when that security zone is not being enforced.

(13) *Liquefied Hazardous Gas (LHG) Vessels.* (i) *Definitions.* For the purposes of this section, *LHG Vessel* means any vessel constructed or converted to carry, in bulk, any of the flammable or toxic products listed in 33 CFR 127.005, Table 127.005.

(ii) *Location.* All waters within a 200-yard radius of any LHG Vessel that is underway and all waters within a 100-yard radius of any LHG Vessel that is moored or at anchor.

(iii) *Enforcement period.* The zone described in paragraph (a)(13) of this section will be activated upon entry of a LHG Vessel into the navigable waters of the United States (see 33 CFR 2.36(a) to include the 12 NM territorial sea) in the New York Captain of the Port Zone (33 CFR 3.05–30). The LHG Vessel will be identifiable by the requirement to fly the Bravo flag (red international signal flag under Pub. 102, International Code of Signals) from the outermost halyard (above the pilot house) where it can most easily be seen. In addition to visual identification of the LHG Vessel, the Captain of the Port will notify the maritime community of periods during which this zone will be enforced by methods in accordance with 33 CFR 165.7.

(14) *Cruise ships.* (i) *Definition.* For the purposes of this section, *cruise ship*

means a passenger vessel as defined in 46 U.S.C. 2101(22), that is authorized to carry more than 400 passengers and is 200 or more feet in length. A cruise ship under this section will also include ferries as defined in 46 CFR 2.10–25 that are authorized to carry more than 400 passengers and are 200 feet or more in length.

(ii) *Location.* All waters within a 100-yard radius of any Cruise ship whether underway, anchored, or at berth.

(iii) *Enforcement period.* The zone described in paragraph (a)(14) of this section will be activated upon entry of any cruise ship into the navigable waters of the United States (see 33 CFR 2.36(a) to include the 12 NM territorial sea) in the New York Captain of the Port Zone (33 CFR 3.05–30). This zone will remain activated at all times while the cruise ship is within the navigable waters of the United States in the New York Captain of the Port Zone.

(15) *Designated Vessels.* (i) *Definition.* For the purposes of this section, *Designated Vessels* are vessels carrying government officials, dignitaries, or other passengers requiring protection by the U.S. Secret Service, or other Federal, State or local law enforcement agency; barges or ships carrying petroleum products, chemicals, or other hazardous cargo; and passenger vessels (as defined in 46 U.S.C. 2101(22)), that are authorized to carry more than 400 passengers and are less than 200 feet in length.

(ii) *Location.* All waters within a 100-yard radius of any Designated Vessel.

(iii) *Enforcement period.* The zone described in paragraph (a)(15) of this section will be activated upon entry of any Designated Vessel into the navigable waters of the United States (see 33 CFR 2.36(a) to include the 12 NM territorial sea) in the New York Captain of the Port Zone (33 CFR 3.05–30). This zone will remain activated at all times while the Designated Vessel is within the navigable waters of the United States in the New York Captain of the Port Zone. The Designated Vessels, including ships and barges carrying petroleum products, chemicals, or other hazardous cargo will be recognized by the requirement to fly the Bravo flag (red international signal flag under Pub 102, International Code of Signals) from the outermost halyard (above the pilot house) where it can most easily be seen. Vessels that are constrained by their draft from leaving the channel may transit through the zone for the sole purpose of direct and expeditious transit so long as they remain within the navigable channel, maintain the maximum possible safe distance from the Designated Vessel,

and do not stop or loiter within the zone. Designated Vessels carrying government officials, dignitaries, or other passengers requiring protection, and passenger vessels authorized to carry more than 400 passengers and are less than 200 feet in length will be recognizable by their being escorted by a federal, state or local law enforcement or security vessel. The law enforcement or security vessel will be identifiable by flashing light, siren, flags, markings and/or through other means that clearly identify the vessel as engaged in law enforcement or security operations.

(16) *134th Street Pipeline Metering and Regulating Station.* (i) *Location.* All waters of the Hudson River within 25 yards of the 134th Street Pipeline Metering and Regulating Station.

(ii) *Regulations.* (A) Vessels not actively engaged in facility maintenance or inspection operations authorized in advance by the Pipeline Security Officer or designated representative, or authorized docking or undocking operations, must not enter within any part of a zone described in paragraph (a)(16) of this section without the express permission of the Coast Guard Captain of the Port, a designated representative or designated on-scene patrol personnel.

(B) Persons seeking Captain of the Port permission to enter within a particular zone for official business other than authorized passenger, cargo, provision, facility maintenance or inspection, bunker transfer operations or authorized docking or undocking operations may request such authorization by contacting: Commander Coast Guard Sector New York, via the Sector Command Center (SCC), at: 212 Coast Guard Drive, Staten Island, NY 10305, or via fax to (718) 354-4125 or by contacting the Sector Command Center Duty Officer by phone at: (718) 354-4353.

(17) *Waterfront Heliports.* (i) *Location.* All waters of the East River within 25 yards of the East 34th Street and Wall Street Heliports, and all waters of the Hudson River within 25 yards of the West 30th Street Heliport and the Jersey City/Newport Heliport, areas of land or water under and in immediate proximity to them; buildings on such structures or contiguous to them; and equipment and materials on such structures and in such buildings. When a barge, ferry, or other commercial vessel is conducting transfer operations at a waterfront heliport, the 25-yard zone is measured from the outboard side of the commercial vessel.

(ii) *Regulations.* (A) Vessels not actively engaged in passenger, cargo, provision, facility maintenance or

inspection, bunker transfer operations, or docking or undocking operations, authorized in advance by the Facility Security Plan, Facility Security Officer or designated representative, must not enter within any part of a zone described in paragraph (a)(17) of this section without the express permission of the Coast Guard Captain of the Port, a designated representative, or designated on-scene patrol personnel.

(B) Persons seeking Captain of the Port permission to enter within a particular zone for official business other than authorized passenger, cargo, provision, facility maintenance or inspection, bunker transfer operations or authorized docking or undocking operations may request such authorization by contacting: Commander Coast Guard Sector New York, via the Sector Command Center (SCC), at: 212 Coast Guard Drive, Staten Island, NY 10305, or via fax to (718) 354-4125 or by contacting the Sector Command Center Duty Officer by phone at: (718) 354-4353.

(C) Vessels entering or departing the marina north of the Newport Helistop are authorized to transit through the safety/security zone around the Newport Helistop during their transit, provided that helicopters are not taking off or landing. No loitering or unnecessary delay is authorized during these transits.

* * * * *

Dated: November 3, 2008.

Robert R. O'Brien, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, New York.

Editorial Note: This document was received in the Office of the Federal Register on Tuesday, February 10, 2009.

[FR Doc. E9-3162 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA-HQ-OAR-2003-0064, FRL-8773-2]

RIN 2060-AL75

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Reconsideration.

SUMMARY: On January 30, 2009, the Natural Resources Defense Council ("NRDC") submitted a petition for reconsideration (the "NRDC Petition") of the rule addressing "aggregation" under the Prevention of Significant Deterioration and the Nonattainment New Source Review programs (collectively, "NSR") published in the *Federal Register* on January 15, 2009. This rule (the "NSR Aggregation Amendments") described when a source must combine ("aggregate") nominally-separate physical changes and changes in the method of operation for the purpose of determining whether they are a single change under NSR and result in a significant emissions increase.

In response to the NRDC Petition, having found that the petitioner has raised objections to the rule that arose after the comment period and that are of central relevance to the rule, the EPA is convening a proceeding for reconsideration as provided for under the Clean Air Act section 307(d)(7)(B). In the near future, EPA will publish a notice in the *Federal Register* establishing a comment period and a hearing date for this proceeding.

DATES: On February 13, 2009, the EPA hereby convenes a proceeding for reconsideration of the NSR Aggregation Amendments published at 74 FR 2376 (January 15, 2009).

ADDRESSES: *Docket:* The final rule, the petition for reconsideration, and all other documents in the record for the rulemaking are in Docket ID No. EPA-HQ-OAR-2003-0064. 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 Air and Radiation Docket and Information Center, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

FOR FURTHER INFORMATION CONTACT: Mr. David Svendsgaard, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541-2380; fax number: (919) 541-5509, e-mail address: svendsgaard.dave@epa.gov.

Dated: February 9, 2009.

Lisa P. Jackson,
Administrator.

[FR Doc. E9-3174 Filed 2-12-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3000

[WO-310-1310-PP-24 1A]

RIN 1004-AE01

Minerals Management: Adjustment of Cost Recovery Fees

Correction

In rule document E8-22255 beginning on page 54717 in the issue of Tuesday, September 23, 2008 make the following correction:

§3000.12 [Corrected]

. On page 54720, in §3000.12(a), in the third column, in the FY 2009 Processing and Filing Fee Table, in the second column, in the 18th entry, "10" should read "105".

[FR Doc. Z8-22255 Filed 2-12-09; 8:45 am]

BILLING CODE 1505-01-D

Proposed Rules

Federal Register

Vol. 74, No. 29

Friday, February 13, 2009

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0124; Directorate Identifier 2009-CE-004-AD]

RIN 2120-AA64

Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

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

A damaged wiring harness which caused the air conditioning system circuit breaker to trip and evidencing a local overheating has been found on an in-service aircraft.

The investigation revealed that the damage (chafed wires) found on the wiring harness resulted from an interference with the under-floor attachment fittings of the cabin partition net which was due to an incorrect routing of the harness while on the production line.

Such conditions could result in an electrical short and potential loss of several functions essential for the safety of flight.

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

DATES: We must receive comments on this proposed AD by March 16, 2009.

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

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

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

- **Mail:** U.S. Department of Transportation, Docket Operations, M-

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4119; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0124; Directorate Identifier 2009-CE-004-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European

Community, has issued EASA AD No.: 2009-0006, dated January 13, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

A damaged wiring harness which caused the air conditioning system circuit breaker to trip and evidencing a local overheating has been found on an in-service aircraft.

The investigation revealed that the damage (chafed wires) found on the wiring harness resulted from an interference with the under-floor attachment fittings of the cabin partition net which was due to an incorrect routing of the harness while on the production line.

Such conditions could result in an electrical short and potential loss of several functions essential for the safety of flight.

For the reason stated above, this AD mandates inspection of the electrical wiring harness, and if necessary a rework of its routing.

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

Relevant Service Information

EADS SOCATA has issued Mandatory Service Bulletin SB 70-163, dated November 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 45 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Where the service information lists required labor that is covered under warranty, we have assumed that there will be no charge for this labor. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$3,600, or \$80 per product.

In addition, we estimate that any necessary follow-on actions would take about 1.5 work-hours, for a cost of \$120 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EADS SOCATA: Docket No. FAA-2009-0124; Directorate Identifier 2009-CE-004-AD.

Comments Due Date

(a) We must receive comments by March 16, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to TBM 700 airplanes, serial numbers 434 through 478, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 92: Wiring Elements.

Reason

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

A damaged wiring harness which caused the air conditioning system circuit breaker to trip and evidencing a local overheating has been found on an in-service aircraft.

The investigation revealed that the damage (chafed wires) found on the wiring harness resulted from an interference with the under-floor attachment fittings of the cabin partition net which was due to an incorrect routing of the harness while on the production line.

Such conditions could result in an electrical short and potential loss of several functions essential for the safety of flight.

For the reason stated above, this AD mandates inspection of the electrical wiring harness, and if necessary a rework of its routing.

Actions and Compliance

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

(1) Within the next 100 hours time-in-service after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first, inspect the electrical wiring harness at frame C14 and between frames C16 and C17 for wire chafing and incorrect routing following EADS SOCATA Service Bulletin SB 70-163, dated November 2008.

(2) If any wire chafing and/or incorrect routing are found, before further flight, repair and reroute the electrical harness following EADS SOCATA Service Bulletin SB 70-163, dated November 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4119; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2009-0006, dated January 13, 2009; and EADS SOCATA Service Bulletin SB 70-163, dated November 2008, for related information.

Issued in Kansas City, Missouri, on February 6, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3104 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0125; Directorate Identifier 2009-CE-002-AD]

RIN 2120-AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Models DA 40 and DA 40F Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

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

A number of wings manufactured by Diamond Aircraft Industries Inc. in Canada have been found to exhibit voids in the adhesive joint between the main spar caps and the upper wing skins. The available information indicates that wings with voids continue to meet the certification design limits, provided the voids are within established criteria. However, to detect any wings that may have voids exceeding these criteria, Diamond has issued Mandatory Service Bulletin MSB-40-060 and MSB-F4-016 (single document) that describes instructions for inspection of the aircraft that had these wings installed during manufacture. Aircraft that have voids within the inspection criteria may continue to operate without restriction, pending the outcome of ongoing investigations. Aircraft that have voids exceeding the inspection criteria must be repaired.

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

DATES: We must receive comments on this proposed AD by March 16, 2009.

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

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

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

- *Mail:* U.S. Department of

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0125; Directorate Identifier 2009-CE-002-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2008-0224, dated December 16, 2008 (referred to after this as "the MCAI"), to

correct an unsafe condition for the specified products. The MCAI states:

A number of wings manufactured by Diamond Aircraft Industries Inc. in Canada have been found to exhibit voids in the adhesive joint between the main spar caps and the upper wing skins. The available information indicates that wings with voids continue to meet the certification design limits, provided the voids are within established criteria. However, to detect any wings that may have voids exceeding these criteria, Diamond has issued Mandatory Service Bulletin MSB-40-060 and MSB-F4-016 (single document) that describes instructions for inspection of the aircraft that had these wings installed during manufacture. Aircraft that have voids within the inspection criteria may continue to operate without restriction, pending the outcome of ongoing investigations. Aircraft that have voids exceeding the inspection criteria must be repaired.

For the reasons described above, this EASA AD requires the inspection of the affected aircraft to measure the voids in the adhesive joint between the main spar caps and the upper wing skin, the reporting of all findings to Diamond Aircraft Industries and the repair of any voids exceeding the criteria as specified in the MSB.

Relevant Service Information

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletins No. MSB-40-060 and No. MSB-F4-016 (single document), dated October 20, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 649 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$103,840, or \$160 per product.

Because a permanent resolution to this action has not yet been determined, we have no way of determining the cost of any necessary repairs or parts that may be required as a result of any proposed inspection.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Diamond Aircraft Industries GmbH: Docket No. FAA-2009-0125; Directorate Identifier 2009-CE-002-AD.

Comments Due Date

(a) We must receive comments by March 16, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following model and serial number airplanes, certificated in any category: DA 40 airplanes serial numbers 40.377, 40.420, 40.422, 40.644 through 40.693, 40.695 through 40.842, 40.844, 40.846 through 40.887, 40.889 through 40.912, 40.915 through 40.917, 40.919 through 40.929, 40.931, 40.932, 40.934 through 40.940, 40.944 through 40.949, 40.951 through 40.953, 40.955 through 40.957, 40.961, 40.964, and 40.971; and DA 40F airplanes, serial numbers 40.FC007 through 40.FC029.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

A number of wings manufactured by Diamond Aircraft Industries Inc. in Canada have been found to exhibit voids in the adhesive joint between the main spar caps and the upper wing skins. The available information indicates that wings with voids continue to meet the certification design limits, provided the voids are within established criteria. However, to detect any

wings that may have voids exceeding these criteria, Diamond has issued Mandatory Service Bulletin MSB-40-060 and MSB-F4-016 (single document) that describes instructions for inspection of the aircraft that had these wings installed during manufacture. Aircraft that have voids within the inspection criteria may continue to operate without restriction, pending the outcome of ongoing investigations. Aircraft that have voids exceeding the inspection criteria must be repaired.

For the reasons described above, this EASA AD requires the inspection of the affected aircraft to measure the voids in the adhesive joint between the main spar caps and the upper wing skin, the reporting of all findings to Diamond Aircraft Industries and the repair of any voids exceeding the criteria as specified in the MSB.

Actions and Compliance

(f) Unless already done, do the following actions following Diamond Aircraft Industries GmbH Mandatory Service Bulletins No. MSB-40-060 and No. MSB-F4-016 (single document), dated October 20, 2008:

(1) Within the next 100 hours time-in-service (TIS) after the effective date of this AD or within the next 3 months after the effective date of this AD, whichever occurs first, inspect the adhesive joint between the wing main spar caps and the upper wing skin for adhesive voids.

(2) Within the next 30 days after the inspection required in paragraph (f)(1) of this AD or within 30 days after the effective date of this AD, whichever occurs later, report the results to Diamond Aircraft Industries following the instructions in Diamond Aircraft Industries GmbH Mandatory Service Bulletins No. MSB-40-060 and No. MSB-F4-016 (single document), dated October 20, 2008.

(3) If, as a result of the inspection required by paragraph (f)(1) of this AD, an adhesive void is found that exceeds the criteria specified in the service information, before further flight, contact Diamond Aircraft Industries at Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A-2700 Wiener Neustadt; telephone: +43 2622 26700; fax: +43 2622 26780; email: office@diamond-air.at, for approved repair instructions and accomplish the repair accordingly.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies,

notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2008-0224, dated December 16, 2008; and Diamond Aircraft Industries GmbH Mandatory Service Bulletins No. MSB-40-060 and No. MSB-F4-016 (single document), dated October 20, 2008, for related information.

Issued in Kansas City, Missouri, on February 6, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3117 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0126; Directorate Identifier 2009-CE-003-AD]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

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

This Airworthiness Directive (AD) is prompted by some occurrences where the Deice Pressure Regulator has vented too

much hot air into the forward compartment damaging the oxygen cylinder ON/OFF cable, the Ram-Air Scoop cable and the Environmental Control System (ECS) firewall shut-off valve cable.

If incorrectly adjusted, or defective, the Deice Pressure Regulator can vent hot air into the forward compartment. This situation can cause overheating and failures of components located inside the forward compartment, which could result in potential loss of several functions essential for safe flight.

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

DATES: We must receive comments on this proposed AD by March 16, 2009.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64016; telephone: (816) 329-4059; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0126; Directorate Identifier 2009-CE-003-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory,

economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2009-0007, dated January 13, 2009, (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is prompted by some occurrences where the Deice Pressure Regulator has vented too much hot air into the forward compartment damaging the oxygen cylinder ON/OFF cable, the Ram-Air Scoop cable and the Environmental Control System (ECS) firewall shut-off valve cable.

If incorrectly adjusted, or defective, the Deice Pressure Regulator can vent hot air into the forward compartment. This situation can cause overheating and failures of components located inside the forward compartment, which could result in potential loss of several functions essential for safe flight. For the reason described above, this AD mandates the installation of a flange and scoop in the aircraft skin to vent the hot air from the Deice Pressure Regulator overboard.

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

Relevant Service Information

Pilatus Aircraft Ltd. has issued Pilatus PC12 Service Bulletin No. 30-011, dated July 9, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 131 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$1,000 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$20,960, or \$160 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA-2009-0126; Directorate Identifier 2009-CE-003-AD.

Comments Due Date

(a) We must receive comments by March 16, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models PC-12 and PC-12/45 airplanes, manufacturer's serial numbers (MSN) 101 through MSN 320, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 30: Ice and Rain Protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states: This Airworthiness Directive (AD) is prompted by some occurrences where the Deice Pressure Regulator has vented too much hot air into the forward compartment damaging the oxygen cylinder ON/OFF cable, the Ram-Air Scoop cable and the Environmental Control System (ECS) firewall shut-off valve cable.

If incorrectly adjusted, or defective, the Deice Pressure Regulator can vent hot air into the forward compartment. This situation can cause overheating and failures of components located inside the forward compartment, which could result in potential loss of several functions essential for safe flight. For the reason described above, this AD mandates the installation of a flange and scoop in the aircraft skin to vent the hot air from the Deice Pressure Regulator overboard.

Actions and Compliance

(f) Unless already done, within the next 3 months after the effective date of this AD, install an overboard vent for the airfoil deice system pressure regulator (Modification Kit Number 500.50.12.332) following the Accomplishment Instructions in Pilatus Aircraft Ltd. PC12 Service Bulletin No. 30-011, dated July 9, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64016; telephone: (816) 329-4059; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009-0007, dated January 13, 2009; and Pilatus Aircraft Ltd. PC12 Service Bulletin No. 30-011, dated July 9, 2008, for related information.

Issued in Kansas City, Missouri, on February 6, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3111 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2009-0123; Directorate Identifier 2009-CE-005-AD]

RIN 2120-AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Models 228-100, 228-101, 228-200, 228-201, 228-202, and 228-212 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

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

It has been evidenced in-service that aileron trim actuator and rod spring lever attachment bracket—between frame 18 and 19 LH—on some aircraft may present loose rivets. If left uncorrected, this condition could lead to the separation of the attachment bracket which could result in loss of aileron trim and loss of artificial force feedback, and consequent reduced controllability of the airplane.

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

DATES: We must receive comments on this proposed AD by March 16, 2009.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Fax:** (202) 493-2251.
- **Mail:** U.S. Department of Transportation, Docket Operations,

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0123; Directorate Identifier 2009-CE-005-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2008-0217, dated December 10, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

It has been evidenced in-service that aileron trim actuator and rod spring lever

attachment bracket—between frame 18 and 19 LH—on some aircraft may present loose rivets. If left uncorrected, this condition could lead to the separation of the attachment bracket which could result in loss of aileron trim and loss of artificial force feedback, and consequent reduced controllability of the airplane.

For the reasons described above, this Airworthiness Directive requires first an inspection of the trim lever attachment bracket and as a second step the replacement of the 4 existing rivets by Hi-Lock rivets.

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

Relevant Service Information

RUAG Aerospace Defence Technology has issued Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 17 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor

rate is \$80 per work-hour. Required parts would cost about \$5 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$6,885, or \$405 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier Luftfahrt GmbH: Docket No. FAA-2009-0123; Directorate Identifier 2009-CE-005-AD.

Comments Due Date

(a) We must receive comments by March 16, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models 228-100, 228-101, 228-200, 228-201, 228-202, and 228-212 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

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

It has been evidenced in-service that aileron trim actuator and rod spring lever attachment bracket—between frame 18 and 19 LH—on some aircraft may present loose rivets. If left uncorrected, this condition could lead to the separation of the attachment bracket which could result in loss of aileron trim and loss of artificial force feedback, and consequent reduced controllability of the airplane.

For the reasons described above, this Airworthiness Directive requires first an inspection of the trim lever attachment bracket and as a second step the replacement of the 4 existing rivets by Hi-Lock rivets.

Actions and Compliance

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

(1) Within the next 10 hours time-in-service (TIS) after the effective date of this AD, do the inspection for "unequal aileron steering wheel force" in accordance with paragraphs 2.A.(1) through 2.A.(3) of the Accomplishment Instructions of RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008. If any defect is found, before further flight, modify the attachment bracket riveting in accordance with paragraph 2.B. of the Accomplishment Instructions of RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008.

(2) Within 300 hours TIS after the effective date of this AD, unless accomplished as required per paragraph (f)(1) of this AD, modify the attachment bracket riveting in accordance with paragraph 2.B. of the Accomplishment Instructions of RUAG Aerospace Defence Technology Dornier 228

Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested, using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency AD No.: 2008-0217, dated December 10, 2008; and RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008, for related information.

Issued in Kansas City, Missouri on February 6, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3114 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0055; Directorate Identifier 2008-NM-194-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300 B2-1C, A300 B2-203, A300 B2K-3C, A300 B4-103, A300 B4-203, and A300 B4-2C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88). * * *

Under this regulation, all holders of type certificates for passenger transport aircraft * * * are required to conduct a design review against explosion risks.

One of the consequences of the Airbus design review is the modification of the fuel pump wiring to provide protection against chafing of the fuel pump cables. This condition, if not corrected, could result in short circuits leading to fuel pump failure, arcing, and possible fuel tank explosion.

[A previous AD] was issued to require * * * modification [of the fuel pump against short circuit]. * * * More recently, an additional modification of the electrical wiring of the outer fuel pump and the landing lights on the left (LH) and right (RH) sides has been introduced * * *.

The additional modification will provide additional protection from chafing and will prevent intermittent operation of the fuel pump and landing lights, as well as failure of the power supply. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 16, 2009.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Fax:** (202) 493-2251.
- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor,

Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• **Hand Delivery:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0055; Directorate Identifier 2008-NM-194-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We

will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On August 17, 2007, we issued AD 2007-18-02, Amendment 39-15182 (72 FR 49175, August 28, 2007). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2007-18-02, an Airbus design review has shown that the LH (left-hand) and RH (right-hand) landing light power supplies, which are installed in the same metallic conduits as the fuel pump cables, are subject to chafing. The design review also showed that installing additional mechanical protection will protect against chafing of the landing light cables, provide further protection against chafing of the fuel pump cables, and will prevent intermittent operation of the fuel pump and landing lights, as well as failure of the power supply. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008-0188, dated October 10, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88).

Subsequently, the Joint Aviation Authorities (JAA) recommended the application of a similar regulation to the National Aviation Authorities (NAA) of its member countries. Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 3,402 kg (7,500 lbs) or more, which have received their certification since 01 January 1958, are required to conduct a design review against explosion.

One of the consequences of the Airbus design review is the modification of the fuel pump wiring to provide protection against chafing of the fuel pump cables. This condition, if not corrected, could result in short circuits leading to fuel pump failure, arcing, and possible fuel tank explosion.

EASA (European Aviation Safety Agency) AD 2007-0066 [which corresponds to FAA AD 2007-18-02] was issued to require this modification in accordance with Airbus SB [service bulletin] A300-24-0103, Revision 01. More recently, an additional modification of the electrical wiring of the outer fuel pump and the landing lights on the left (LH) and right (RH) side has been introduced in Revision 02 of Airbus SB A300-24-0103. For the reason described above, this new AD retains the requirements of EASA AD 2007-0066, which is superseded, and requires additional work.

The additional modification will provide additional protection from

chafing and will prevent intermittent operation of the fuel pump and landing lights, as well as failure of the power supply. The additional work is installing mechanical protection (shrink sleeve to cover the whole wire cable length, and additional braided conduit sleeves (Halar) for the outer fuel pumps and the landing light cables on the LH and RH side. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A300-24-0103, Revision 02, dated April 4, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect 13 products of U.S. registry. We also estimate that it would take about 88 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$9,150 per product. Where the service information lists required parts

costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$210,470, or \$16,190 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39-15182 (72 FR 49175, August 28, 2007) and adding the following new AD:

Airbus: Docket No. FAA-2009-0055; Directorate Identifier 2008-NM-194-AD.

Comments Due Date

(a) We must receive comments by March 16, 2009.

Affected ADs

(b) The proposed AD supersedes AD 2007-18-02, Amendment 39-15182.

Applicability

(c) This AD applies to Airbus Model A300 B2-1C, A300 B2-203, A300 B2K-3C, A300 B4-103, A300 B4-203, and A300 B4-2C, certificated in any category, as identified in Airbus Mandatory Service Bulletin A300-24-0103, Revision 02, dated April 4, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical Power.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states: [T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88). Subsequently, the Joint Aviation Authorities (JAA) recommended the application of a similar regulation to the National Aviation Authorities (NAA) of its member countries. Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 3,402 kg (7,500 lbs) or more, which have received their certification since 01 January 1958, are required to conduct a design review against explosion.

One of the consequences of the Airbus design review is the modification of the fuel pump wiring to provide protection against chafing of the fuel pump cables. This condition, if not corrected, could result in short circuits leading to fuel pump failure, arcing, and possible fuel tank explosion.

EASA (European Aviation Safety Agency) AD 2007-0066 [which corresponds to FAA AD 2007-18-02] was issued to require this modification in accordance with Airbus SB [service bulletin] A300-24-0103, Revision 01. More recently, an additional modification of the electrical wiring of the outer fuel pump and the landing lights on the left (LH) and right (RH) side has been introduced in

Revision 02 of Airbus SB A300-24-0103. For the reason described above, this new AD retains the requirements of EASA AD 2007-0066, which is superseded, and requires additional work.

The additional modification will provide additional protection from chafing and will prevent intermittent operation of the fuel pump and landing lights, as well as failure of the power supply. The additional work is installing mechanical protection (shrink sleeve to cover the whole wire cable length, and additional braided conduit sleeves (Halar)) for the outer fuel pumps and the landing light cables on the LH and RH side.

Restatement of Requirements of AD 2007-18-02

(f) Within 31 months after October 2, 2007 (the effective date of AD 2007-18-02), unless already done, modify the inner and outer fuel pump wiring, route 1P and 2P harnesses in the LH (left-hand) wing and in the RH (right-hand) wing, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300-24-0103, Revision 01, dated January 11, 2007. Actions done before October 2, 2007 in accordance with Airbus Service Bulletin A300-24-0103, dated March 15, 2006, for airplanes under configuration 1 as defined in Airbus Service Bulletin A300-24-0103, Revision 01, dated January 11, 2007, or Revision 02, dated April 4, 2008, except as provided by paragraph (g) of this AD, are acceptable for compliance with the requirements of this paragraph.

New Requirements of This AD: Actions and Compliance

(g) After the effective date of this AD, Airbus Mandatory Service Bulletin A300-24-0103, Revision 02, dated April 4, 2008, must be used for the actions required by paragraph (f) of this AD.

(h) Unless already done, within 12 months after the effective date of this AD, modify the wiring of the outer fuel pump and the landing light on the LH side route 1P harness and RH side route 2P harness in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300-24-0103, Revision 02, dated April 4, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

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

or lacking a PI, your local FSDO. (2) Alternative methods of compliance, approved previously in accordance with AD 2007-18-02, are approved as alternative methods of compliance with this AD.

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

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

Related Information

(j) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2008-0188, dated October 10, 2008; Airbus Service Bulletin A300-24-0103, Revision 01, dated January 11, 2007; and Airbus Mandatory Service Bulletin A300-24-0103, Revision 02, dated April 4, 2008; for related information.

Issued in Renton, Washington, on January 21, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3121 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-1129; Airspace Docket No. 08-ANM-7]

Proposed Establishment of Class E Airspace; Ten Sleep, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Red Reflet Ranch Airport, Ten Sleep, WY. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Red Reflet Ranch Airport, Ten Sleep, WY. The FAA is proposing this action to enhance the safety and management of aircraft operations at Red Reflet Ranch Airport, Ten Sleep, WY.

DATES: Comments must be received on or before March 30, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W2-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366-9826. You must identify FAA Docket No. FAA-2008-1129; Airspace Docket No. 08-ANM-7, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203-4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2008-1129 and Airspace Docket No. 08-ANM-7) and be submitted in triplicate to the Docket Management System (see ADDRESSES section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2008-1129 and Airspace Docket No. 08-ANM-7". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the

Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at http://www.faa.gov/airports_airtraffic_air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ADDRESSES section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Red Reflet Ranch Airport, Ten Sleep, WY. Controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) SIAP at Red Reflet Ranch Airport, Ten Sleep, WY. This action would enhance the safety and management of aircraft operations at Red Reflet Ranch Airport, Ten Sleep, WY.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S, signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class F airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule,

when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103.

Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Red Reflet Ranch Airport, Ten Sleep, WY.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY, E5 Ten Sleep, WY [New]

Ten Sleep, Red Reflet Ranch Airport, WY
(Lat. 43°58'04" N., long. 107°22'46" W.)

That airspace extending upward from 700 feet above the surface within a 6.6 mile radius of the Red Reflet Ranch Airport, and within 4 miles each side of the Red Reflet Ranch Airport 293° bearing extending from the 6.6-mile radius to 12 miles northwest of the Red Reflet Ranch Airport.

* * * * *

Issued in Seattle, Washington, on January 14, 2009.

H. Steve Karnes,

Acting Manager, Operations Support Group,
Western Service Center.

[FR Doc. E9-3076 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-138326-07]

RIN 1545-BH22

Tax Avoidance Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations under section 6231 of the Internal Revenue Code that allow the IRS to convert partnership items to nonpartnership items when the application of the unified partnership audit and litigation procedures of sections 6221 through 6234 (TEFRA partnership procedures) with respect to certain tax avoidance transactions interferes with the effective and efficient enforcement of the internal revenue laws. The regulations affect taxpayers who have engaged in a listed transaction through an entity subject to the TEFRA partnership procedures. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by May 14, 2009. Outlines of topics to be discussed at the public hearing scheduled for June 4, 2009, at 10 a.m. must be received by May 15, 2009.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-138326-07), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-138326-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-138326-07). The public hearing will be held in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations,

Robert T. Wearing at (202) 622-4570; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Richard.A.Hurst@irs.counsel.treas.gov of the Publications and Regulations Branch at (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR Part 301) under section 6231(c) of the Internal Revenue Code. Section 402 of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248 (96 Stat. 324) added sections 6221 through 6231 to the Internal Revenue Code to provide unified audit and litigation procedures for determining the tax treatment of partnership items at the partnership level rather than at the partner level. Sections 6233 and 6234 were subsequently added by section 714(p)(1) of the Tax Reform Act of 1984, Public Law 98-369 (98 Stat. 494) and section 1231(a) of the Taxpayer Relief Act of 1997, Public Law 105-34 (11 Stat. 788), respectively.

Ordinarily, under the TEFRA partnership procedures, the IRS must adjust a partner's treatment of partnership items only through partnership-level proceedings. There are several exceptions that allow adjustments to be made through partner-level proceedings. The small partnership exception set forth in section 6231(a)(1)(B) provides that partnerships having ten or fewer partners, each of whom is an individual, a C corporation, or an estate, are not subject to the TEFRA partnership procedures. Section 6231(b) provides that items cease to be partnership items subject to the TEFRA partnership procedures in several different situations. Section 6231(c) allows the Treasury Department and the IRS to determine and provide by regulations that treating items as partnership items in areas that present special enforcement considerations will interfere with the effective and efficient enforcement of the internal revenue laws and that, consequently, the items shall be treated as nonpartnership items. Section 6231(c) also allows the Treasury Department and the IRS to prescribe by regulations rules necessary to achieve the purposes of the TEFRA partnership procedures with respect to special enforcement areas. Section 6231(c) lists several specific special enforcement areas, including criminal investigations

and indirect methods of proof of income, and provides that the Treasury Department and the IRS may determine others. The Treasury Department and the IRS previously have determined and provided by regulations that bankruptcy, receivership, and prompt assessment requests interfere with the effective and efficient enforcement of the internal revenue laws and designated them as special enforcement areas. See §§ 301.6231(c)-7 and -8 of the Procedure and Administration Regulations.

Explanation of Provisions

One of the principal purposes behind the enactment of the TEFRA partnership procedures was to provide for the more efficient use of the IRS's resources by reducing multiple proceedings with respect to partnership items. The abusive tax shelters of the 1970s often used a single partnership to generate tax benefits for dozens, if not hundreds, of investors. Before the enactment of the TEFRA partnership procedures, the partnership items of each investor were subject to separate partner-level proceedings. The TEFRA partnership procedures effectively brought the partnership item components of these proceedings together in a single proceeding. Unlike the tax shelters of the 1970s, however, the recent generation of tax avoidance transactions often uses combinations of trusts, S corporations, limited liability companies, partnerships, and other entities, many times arranged in tiers, for the tax benefit of a single investor or a small group of investors. The application of the TEFRA partnership procedures to these tax avoidance transactions often results in multiple proceedings that complicate the ultimate determination of the investors' tax liabilities and consume significant administrative resources.

For example, in a typical transaction described in Notice 2000-44 (2000-2 CB 255) (September 5, 2000), see § 601.601(d)(2)(ii)(b), in which the ultimate noneconomic loss or deduction is taken at the partner level by a single individual, the IRS first needs to initiate timely partnership-level proceedings to determine, among other things, whether the partnership is a sham and the amount and character of contributions and partnership liabilities. Following the partnership-level proceedings, the IRS often still must issue an affected items notice of deficiency to disallow the noneconomic loss or deduction at the partner level. Conducting both entity-level and partner-level proceedings in these cases to determine the tax liabilities of only a single

individual or small group of related persons places an unnecessary burden on taxpayers, the IRS, and the federal courts.

Other tax avoidance transactions use multiple tiers of partnerships making coordinated partnership elections for the benefit of a single individual. Two or more separate partnership proceedings, as well as a partner-level proceeding, may need to take place before an assessment can be made against the individual. Again, conducting entity-level proceedings in these and similar cases in which a single individual or small group of related persons control multiple entities and receive all the tax benefits is inefficient and imposes a significant administrative burden.

The need to conduct partnership-level proceedings to determine the tax liabilities of a single individual or small group of related persons also generates complex and burdensome procedural issues that do not contribute to the determination of the individuals' tax liabilities. For example, the application of the TEFRA partnership procedures may raise complicated issues concerning the segregation and aggregation of partnership items, affected items, and nonpartnership items. Often, the TEFRA partnership procedures make the identification and examination of the transactions more complicated and difficult. As a result, the Treasury Department and the IRS have determined that special enforcement considerations, within the meaning of section 6231(c)(1)(E), are present in the case of transactions that the Treasury Department and the IRS have publicly identified as tax avoidance transactions. Specifically, the Treasury Department and the IRS have determined that treating items related to listed transactions within the meaning of § 1.6011-4(b)(2) of the Income Tax Regulations as partnership items interferes with the effective and efficient enforcement of the internal revenue laws.

The proposed regulations are limited to tax avoidance transactions that are publicly identified by the Treasury Department and the IRS as listed transactions under § 1.6011-4(b)(2) of the Income Tax Regulations. Under the proposed regulations, the transaction must be a listed transaction on the date the IRS sends written notification to the partner that the partner's partnership items will be treated as nonpartnership items. Accordingly, the fact that a transaction becomes a listed transaction after the date on which the taxpayer engages in the transaction does not preclude the conversion of items under

the proposed regulations. This limitation promotes taxpayer awareness of the transactions that can subject their partnership items to removal from the TEFRA partnership procedures. The Treasury Department and the IRS also have determined that the limitation will provide for the more efficient use of the IRS's resources.

Under the proposed regulations, the IRS will make determinations regarding whether to convert partnership items to nonpartnership items on a partnership-by-partnership and partner-by-partner basis. Thus, if a taxpayer is a partner in two partnerships with partnership items related to listed transactions and a third partnership that has no partnership items related to listed transactions, the IRS could convert the taxpayer's partnership items in either or both of the first two partnerships but could not convert the taxpayer's partnership items in the third partnership. Similarly, if a taxpayer engages in a listed transaction through a tier of TEFRA entities, the IRS could convert the taxpayer's partnership items in any or all of the tier entities with partnership items related to the listed transaction.

Although, consistent with section 6231(c)(2), the Secretary has determined that treating items related to listed transactions as partnership items will interfere with the effective and efficient enforcement of the internal revenue laws and has so provided in the proposed regulations, the proposed regulations further provide that the partnership items related to listed transactions remain subject to the TEFRA partnership procedures unless and until the IRS sends written notification to the partner that the items will be treated as nonpartnership items. In this regard, the proposed regulations are consistent with the rules that are already in place with respect to sending notices under section 301.6231(c)-5 of the Procedure and Administration Regulations relating to partners under criminal investigation. See *Phillips v. Commissioner*, 272 F.3d 1172, 1176 (9th Cir. 2001). Specifically, the IRS will send written notification under the circumstances described in the proposed regulations using procedures similar to the procedures used under § 301.6231(c)-5 of the Procedure and Administration Regulations, and will make conforming changes to the Internal Revenue Manual and Delegation Order 4-19, as necessary.

If the IRS concludes that a particular partner's partnership items should be treated as nonpartnership items under the circumstances described in the proposed regulations, the IRS will send written notification to the partner

identifying each partnership for which the partner's partnership items will be treated as nonpartnership items. In the case of an indirect partner (as defined in section 6231(a)(10)) having an interest in a partnership through one or more pass-thru partners (as defined in section 6231(a)(9)), the IRS may send a written notification to the indirect partner identifying only the lower-tier partnership and not the pass-thru partners. In those circumstances, the partnership items attributable to the lower-tier partnership that flow through to the indirect partners will convert to nonpartnership items of the notified partner, even though the pass-thru partners were not identified in the written notification. Any partnership items originating with the pass-thru partners, that is, partnership items that are not attributable to the lower-tier partnership, will not convert to nonpartnership items unless the IRS identifies the pass-thru partner in the written notification (in which case all the partnership items directly attributable to the pass-thru partner also will convert to nonpartnership items of the notified partner).

As of the date that the IRS sends written notification of the conversion to the partner, all of the partner's partnership items attributable to the identified partnership will be treated as nonpartnership items for all of the identified partnership's taxable years that (1) ended on or before the date written notification is sent by the IRS to the partner and (2) for which the partner has items attributable to that partnership that are related to the listed transaction. The deficiency procedures in subchapter B of chapter 63 will apply, pursuant to section 6230(a)(2)(A)(ii), as of the date of the notice.

The proposed regulations incorporate existing rules under § 301.6231(c)-3 of the Procedure and Administration Regulations, which provide that the partnership items of a partnership may not be converted if a notice of final partnership administrative adjustment (FPAA) with respect to those partnership items has been mailed to the tax matters partner of the partnership and either (1) the period for bringing an action with respect to the FPAA has expired and no judicial action has been brought or (2) the decision of the court in an action brought with respect to the FPAA has become final. This rule allows the IRS to send notification converting partnership items to nonpartnership items after the commencement of a judicial proceeding related to the converted partnership items. The

Treasury Department and the IRS recognize, however, that it is not in the best interest of taxpayers, the Treasury Department, the IRS, or the courts to unnecessarily delay conversion of partnership items to nonpartnership items. Consistent with its existing practices under section 6231(c), the IRS intends to make a decision regarding whether to convert partnership items to nonpartnership items before the commencement of any judicial proceeding, although on isolated and unusual occasions changed circumstances may require the IRS to revisit that decision after the commencement of a judicial proceeding. In addition, judicial doctrines such as collateral estoppel and res judicata may preclude litigating issues in a partner-level proceeding that were previously litigated in a partnership-level proceeding prior to conversion of partnership items to nonpartnership items. Finally, the partnership items of any partners to whom the IRS does not send written notification will not convert to nonpartnership items.

Proposed Effective Date

The regulations, when finalized, are proposed to apply to any taxable period ending on or after the date of publication of these rules as proposed regulations in the *Federal Register*.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

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

request comments that identify additional transactions or activities that present appropriate grounds for converting partnership items to nonpartnership items. All comments will be made available for public inspection and copying.

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

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by May 15, 2009. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Robert T. Wearing of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR Part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding the entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 301.6231(c)–9 is also issued under 26 U.S.C. 6230(k) and 6231(c)(1) and (c)(3).
* * *

Par. 2. Section 301.6231(c)–3 is amended by revising paragraphs (a) introductory text and (b) to read as follows:

§ 301.6231(c)–3 Limitation on applicability of §§ 301.6231(c)–4 through 301.6231(c)–9.

(a) *In general.* A provision of §§ 301.6231(c)–4 through 301.6231(c)–9 shall not apply with respect to partnership items arising in a partnership taxable year if, as of the date on which those items would otherwise begin to be treated as nonpartnership items under that provision.

(b) *Effective/applicability date.* The rules of this section, when adopted as final regulations in the **Federal Register**, will apply to partner taxable years ending on or after the date of publication of these proposed regulations in the **Federal Register**.

Par. 3. Section 301.6231(c)–9 is added to read as follows:

§ 301.6231(c)–9 Tax avoidance transactions.

(a) *In general.* The treatment of items that relate to a listed transaction, as defined in § 1.6011–4, as partnership items will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, if a partner has partnership items that relate to a listed transaction and are attributable to a partnership that is identified in a written notification described in this paragraph, the partner's partnership items that are attributable to the identified partnership shall be treated as nonpartnership items as of the date on which the written notification is sent by the Internal Revenue Service to the partner. The determination whether to treat the partnership items of a partner as nonpartnership items shall be made by the Internal Revenue Service on a partnership-by-partnership and partner-by-partner basis. The partnership items of a partner shall not be treated as nonpartnership items under this section unless and until the Internal Revenue Service sends the partner written notification that the partner's partnership items attributable to the identified partnership will be treated as nonpartnership items. The written notification shall identify each partnership in which the partner holds an interest, directly or indirectly, with respect to which all the partner's partnership items will be treated as nonpartnership items. All partnership items of a partner that are attributable to a partnership that is identified in a written notification shall be treated as nonpartnership items for all taxable

years of the identified partnership ending on or before the date the Internal Revenue Service sends written notification to the partner in which the partner has partnership items attributable to the identified partnership that relate to the listed transaction. Partnership items of a partner that are attributable to a partnership that is not identified in a written notification sent by the Internal Revenue Service to that partner shall not be treated as nonpartnership items of the notified partner, except that if the notified partner holds an interest in the identified partnership through one or more pass-thru partners (as defined in section 6231(a)(9)), the partnership items attributable to the identified partnership that flow through the pass-thru partners to the indirect partners (as defined in section 6231(a)(10)), will be treated as nonpartnership items of the notified partner even if the written notification does not identify the pass-thru partners.

(b) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. PS1 and PS2 are unrelated partnerships subject to the provisions of subchapter C, chapter 63 of the Internal Revenue Code. A is one of the partners of PS1 and one of the partners of PS2. PS1 and PS2 have partnership items that relate to a listed transaction, as defined in § 1.6011–4(b)(2). The IRS sends written notification to A that his partnership items in PS1 will be treated as nonpartnership items, but the IRS does not send written notification to A that his partnership items in PS2 will be treated as nonpartnership items. As a result, A's partnership items in PS1 are treated as nonpartnership items as of the date that the IRS sent written notification of the conversion to A, and A's partnership items in PS2 remain as partnership items.

Example 2. PS3 and PS4 are partnerships subject to the provisions of subchapter C, chapter 63 of the Internal Revenue Code. B is one of the partners of PS3 and PS3 is one of the partners of PS4. B is an indirect partner in PS4 within the meaning of section 6231(a)(10). Both PS3 and PS4 have partnership items related to a listed transaction, as defined in § 1.6011–4(b)(2). The IRS sends written notification to B that his partnership items in PS4 will be treated as nonpartnership items. As a result, all of B's partnership items flowing from PS4 are treated as nonpartnership items of B as of the date that the IRS sent written notification of the conversion to B. However, since the IRS did not send written notification to B that his partnership items in PS3 will be treated as nonpartnership items, B's partnership items in PS3 that are not attributable to PS4 will remain partnership items.

(c) *Effective/applicability date.* The rules of this section, when adopted as final regulations in the **Federal Register**, will apply to partner taxable years

ending on or after the date of publication of these proposed regulations in the **Federal Register**.

Dated: February 9, 2009.

Linda M. Kroening,
Deputy Commissioner for Services and
Enforcement.

[FR Doc. E9-3069 Filed 2-12-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070718366-7372-01]

RIN 0648-AV32

Fisheries of the Exclusive Economic Zone Off Alaska; Maximum Retainable Amounts for Non-American Fisheries Act Trawl Catcher/Processors

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

ACTION: Proposed rule; request for
comments.

SUMMARY: NMFS proposes to amend regulations to change the time at which the amount of retained groundfish must be calculated to comply with the maximum retainable amounts (MRAs) of selected groundfish species caught by trawl catcher/processors (C/Ps) that are not eligible under the American Fisheries Act (AFA) to participate in directed fishing for pollock. This proposed action would apply to MRAs for yellowfin sole, rock sole, flathead sole, "other flatfish," arrowtooth flounder, Pacific cod, and Atka mackerel in the Bering Sea and Aleutian Islands management area (BSAI) and for Pacific ocean perch in the Aleutian Islands (AI). The proposed action is necessary to provide the non-AFA trawl C/Ps the opportunity to reduce discards and increase retention of these groundfish species. The proposed rule is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP).

DATES: Written comments must be received by March 16, 2009.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-

AV32", by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Fax: (907) 586-7557.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, 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 (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the mailing address above or from the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

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 NMFS at **ADDRESSES** above and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907-586-7442, or jeff.hartman@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries in the BSAI under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

MRAs assist in limiting harvest of a species within its annual total allowable catch (TAC). Once the TAC for a species is reached, retention of that species becomes prohibited and all catch of that species must be discarded. Therefore,

NMFS closes a species to directed fishing before the entire TAC is taken to leave sufficient amounts of the TAC available for incidental catch. A species-specific MRA is used to manage the amount of a species left for incidental catch.

The MRA is the maximum weight of a species closed to directed fishing that may be retained onboard a vessel. MRAs are calculated as a percentage of the weight of catch of each species open to directed fishing that is retained onboard the vessel (the basis species). If the MRA for a species is 35 percent, then the percent of retained incidental species must be no more than 35 percent of the weight of basis species. For example, the MRA for rock sole caught in a directed fishery for yellowfin sole is 35 percent. If yellowfin sole is open to directed fishing (a basis species) and rock sole is closed to directed fishing, a vessel operator may retain rock sole in amounts up to 35 percent of the round weight equivalent of yellowfin sole that is onboard the vessel at any point in time during a fishing trip. All catch of rock sole in excess of the MRA must be discarded. To calculate retained amounts for rock sole and yellowfin sole, the vessel operator would estimate the processed weight of rock sole and yellowfin sole for a trip, convert those processed amounts to round weight equivalent of retained catch, and compare that estimate of retained catch with the 35 percent MRA for rock sole.

MRAs are applied to all groundfish species in the BSAI to reduce fishing effort on specific species when catch is approaching an annual TAC. MRAs are the primary tool used by NMFS to reduce or slow the catch of species when directed fishing for that species is closed. Directed fishing is defined in 50 CFR part 679 as "any fishing activity that results in the retention of an amount of a species or species group onboard a vessel that is greater than the MRA for that species or species group." Table 11 to 50 CFR part 679 provides the list of incidental catch and basis species and the MRA of each incidental catch species as a percentage of each basis species.

Current regulations at § 679.20(e) require, with one exception, that the MRAs apply at any time during a fishing trip. This MRA accounting period is known as "instantaneous," because the MRA may not be exceeded at any point in time during the fishing trip. The exception to this requirement, implemented in 2004 to reduce regulatory discards of pollock, allows the MRA for pollock retained by non-AFA vessels to apply at the end of each offload rather than at any time during

the trip. Regulatory discards of a species occur when regulations prohibit retention of some portion of the catch for a species that is closed to directed fishing.

The amount and rate of groundfish discards resulting from the non-AFA trawl C/P sector have been a continuing issue with the Council. Compared with other processing sectors participating in the groundfish fisheries of the BSAI, the Council concluded that these vessels consistently have had the highest groundfish discard (and lowest retention) amounts and rates. In 1995, the non-AFA trawl C/P sector retained 59 percent of all groundfish combined. The only other processor sector with a combined retention rate below 90 percent in 1995 was the longline C/P sector at 84 percent. Groundfish retention rates of non-AFA trawl C/Ps have increased somewhat in recent years. For example, in 1999 the non-AFA trawl C/P sector had an overall groundfish retention rate of 67 percent. In 2005, the retention rate for the non-AFA trawl C/P sector improved to 75 percent, but was still lower than the longline C/P and AFA-trawl C/P sectors. In 2006 through 2008, the non-AFA trawl C/P sector increased groundfish retention to between 77 and 78 percent of its total catch.

In October 2005, the Council received a request from representatives of the non-AFA trawl C/P sector to increase opportunity to reduce regulatory discards by delaying the MRA accounting period to the time of offload of groundfish from a vessel. The requesters noted that substantial portions of groundfish discard in the BSAI are regulatory discards. Representatives for the non-AFA trawl C/P sector testified to the Council that increasing the interval for accounting of an MRA would allow more time to accumulate species open to directed fishing to use as a basis for retaining catch of species closed to directed fishing. Testimony from the sector also suggested that under some conditions this additional time to accumulate basis species may reduce the amount of regulatory discards, particularly in situations when relatively high rates of incidentally caught species were taken early in a fishing trip.

In December 2006, the Council recommended this proposed action to allow non-AFA trawl C/Ps to apply MRAs at the end of the fishing trip for yellowfin sole, rock sole, flathead sole, "other flatfish," arrowtooth flounder, Atka mackerel, and Pacific cod in the BSAI, and for Pacific ocean perch in the AI. The Council also recommended that a new fishing trip begin any time a non-

AFA trawl C/P enters or leaves a Steller sea lion protection area closed to directed fishing for Atka mackerel or Pacific cod in the BSAI, and that the MRA accounting interval for those two species in Steller sea lion protection areas continue to apply at any time during a fishing trip.

NMFS proposes to amend MRA accounting for non-AFA trawl C/Ps to increase the interval of time MRAs would apply to the groundfish species recommended by the Council. The proposal would also amend the definition of a fishing trip and retain the current MRA accounting interval for Atka mackerel and Pacific cod in Steller sea lion protection areas, as recommended by the Council.

The purpose of this proposed action is to provide additional flexibility for the non-AFA trawl C/P sector to increase retention and decrease regulatory discards of certain groundfish species by extending the interval of time required to comply with MRAs, except inside Steller sea lion protection areas where current MRA accounting at any time during a fishing trip would continue to apply. This action is needed because of the less selective nature of the fisheries that the non-AFA trawl C/P sector participates in and its longstanding difficulties increasing its retained catch of groundfish. Other BSAI groundfish sectors can more easily catch higher proportions of a single species or are able to deliver mixed landings of groundfish to shoreside plants that are able to more efficiently utilize groundfish catch by processing a wider variety of fish products, including fish meal. This proposed action is consistent with National Standard 9 of the Magnuson-Stevens Act because it provides an opportunity for the non-AFA trawl C/Ps to minimize bycatch.

To select groundfish species that were compatible with the purpose and need for this action, the Council reviewed the historical data on catch, TACs, Acceptable Biological Catch, and other biological and population data for a number of groundfish species. Each of the species selected by the Council was intended to provide the non-AFA trawl C/P sector additional opportunities to increase groundfish retention and avoid additional incentives for targeting a species closed to directed fishing, as well as not complicate the enforcement of MRAs. Two species that Council were considered for this action but rejected because they were not consistent with the Council's intent to increase retention of groundfish were Pacific Ocean perch in the BS and Greenland turbot.

If these proposed MRA accounting revisions were to become effective in combination with the remaining MRA regulations at 50 CFR part 679, three possible MRA accounting methods, shown in the table below, could apply to selected groundfish species listed in Table 11 to 50 CFR part 679. As shown in the table below, MRA accounting for a selected species in the BSAI could (1) apply any time during a fishing trip, (2) apply at the end of a fishing trip, (3) apply at offload, or (4) not apply (no MRA calculation required). Except for species caught outside a Steller sea lion protection area (listed in footnote ^a to the table below), or species caught inside a Steller sea lion protection area (listed in footnote ^b to the table below), MRA accounting for species listed in Table 11 to CFR part 679 would not be changed by the proposed action and MRAs for these species would continue to apply to non-AFA trawl C/Ps at any time during a fishing trip. Further, the MRA percentages in Table 11 to 50 CFR part 679 would continue to be used in any calculation of MRAs and no changes to these percentages would be made under this proposed rule.

Amendment 80 C/Ps, non-Amendment 80 C/Ps, and MRA proposed revisions. Requirements for applying and calculating MRAs to each groundfish species, shown in the table below, would depend upon the Amendment 80 (September 14, 2007; 72 FR 52668) access privileges granted to a non-AFA trawl C/P vessel, previous MRA regulations applicable to groundfish species, groundfish species selected by the Council for this proposed action, and location of retained groundfish product in the BSAI, as specified in this proposed action. Regulations establishing the Amendment 80 program affect how MRAs would apply to BSAI groundfish species, based upon whether a vessel is included in an Amendment 80 cooperative listed at § 679.2 or in the Amendment 80 limited access fishery listed at § 679.2 (see table below). Amendment 80 allocates several Bering Sea and Aleutian Islands (BSAI) non-pollock trawl groundfish species among trawl fishery sectors. The table below also depicts how MRA accounting would vary by existing MRA regulations for pollock and many other groundfish species that would not be revised by this proposal. MRA accounting would be affected by extending the interval of time required to comply with MRAs for yellowfin sole, flathead sole, rock sole, Pacific ocean perch in the AI, Pacific cod, Atka mackerel, "other flatfish," and arrowtooth flounder (see table below).

As explained in detail below, the location of retained catch of Atka mackerel and Pacific cod would impact MRA accounting, depending upon whether these species are retained inside or outside a designated Steller sea lion protection area. For example, if a non-AFA trawl C/P, in an Amendment 80 cooperative completed

one fishing trip inside a Steller sea lion protection area and a second fishing trip outside a Steller sea lion protection area, two different MRA accounting intervals would apply to retention of Pacific cod, as long as a single haul did not occur on both sides of a Steller sea lion protection area. If Pacific cod was closed to directed fishing both inside

and outside the Steller sea lion protection area, MRAs would apply at anytime (i.e. "instantaneously") during that fishing trip inside the Steller sea lion protection area, and MRAs would apply at the end of a fishing trip outside the Steller sea lion protection area.

APPLICATION (OR CALCULATION) OF MRAs FOR THE NON-AFA TRAWL C/P SECTOR, BASED ON A VESSELS MEMBERSHIP IN AN AMENDMENT 80 COOPERATIVE AND RETENTION OF GROUND FISH INSIDE OR OUTSIDE A STELLER SEA LION (SSL) PROTECTION AREA

Groundfish species listed in Table 11 to 50 CFR part 679	Vessels in an Amendment 80 cooperative, and retaining groundfish		Vessels not in an Amendment 80 cooperative, and retaining groundfish	
	outside a designated SSL protection area,	inside a designated SSL protection area,	outside a designated SSL protection area,	inside a designated SSL protection area,
yellowfin sole flathead sole, rock sole, AI POP	do not apply		apply at the end of a fishing trip	
"other flatfish"/arrowtooth flounder	apply at the end of a fishing trip		apply at the end of a fishing trip	
Pollock	apply at offload		apply at offload	
Species listed in Table 11 to 50 CFR part 679 except as noted	apply at any time during a fishing trip except for species noted ^a	apply at any time during a fishing trip except for species noted ^b	apply at any time during a fishing trip except for species noted ^a	Apply at any time during a fishing trip except for species noted ^b
Pacific cod Atka mackerel	do not apply	apply at any time during a fishing trip	apply at the end of a fishing trip	apply at any time during a fishing trip

^aYellowfin sole, flathead sole, rock sole, pollock, "other flatfish", arrowtooth flounder, Pacific cod, Atka mackerel and, AI POP.

^bYellowfin sole, flathead sole, rock sole, pollock, "other flatfish", arrowtooth flounder, and AI POP.

Regulations governing the application of MRAs at § 679.20(e)(3) would be revised to add a new paragraph (e)(3)(iv) to specify that the calculation of MRAs by non-AFA trawl C/Ps for yellowfin sole, rock sole, flathead sole, Pacific ocean perch in the AI, "other flatfish," and arrowtooth flounder, would apply at the end of a fishing trip. As shown in the table above, however, MRAs do not apply to yellowfin sole, rock sole, flathead sole and Pacific ocean perch in the AI for vessels in an Amendment 80 cooperative, because these fisheries are not closed to directed fishing for cooperative members under the Amendment 80 program. Members of an Amendment 80 cooperative are prohibited from exceeding the catch amounts assigned to the Amendment 80 cooperative at § 679.7(o)(4)(v). Therefore NMFS does not close the directed fishery for any Amendment 80 species (as defined at § 679.2) to members of an Amendment 80 cooperative except closures to directed fishing for Atka mackerel and Pacific cod inside Steller sea lion protection areas apply to members of an Amendment 80 cooperative as well as all other C/Ps.

This action would not impact MRA accounting for pollock retained in the BSAI, which would continue to be

applied at offload for vessels regardless of whether they are a member of an Amendment 80 cooperative, in the Amendment 80 limited access fishery, or are retaining groundfish inside or outside a Steller sea lion protection area (see table above). The existing regulations for applying pollock MRAs are located at § 679.20(e)(3)(iii).

MRA accounting revisions for Pacific Cod and Atka mackerel in SSL protection areas. A proposed paragraph (iv) would be added at § 679.20(e)(3) to specify how MRA accounting would apply to Pacific cod and Atka mackerel at the end of a fishing trip, except when inside a Steller sea lion protection area that is closed to directed fishing for these two species. In Steller sea lion protection areas closed to directed fishing, the current "instantaneous" MRA accounting interval would continue to apply at any time during a fishing trip to avoid any increase in catch of these species in the protection areas that are important to foraging Steller sea lions. Atka mackerel and Pacific cod are caught and retained or discarded by the non-AFA trawl C/P sector in these Steller sea lion protection areas. NMFS observer data show that 9 percent of the Atka mackerel caught in the Aleutian Islands

subarea (AI) by non-AFA trawl C/Ps are caught inside the Steller sea lion protection areas, and 97 percent of the Atka mackerel caught in the Bering Sea subarea (BS) by these vessels are caught inside the Steller sea lion protection areas. The Council determined that if it adopted the offload MRA accounting interval in Steller sea lion protection areas, Atka mackerel fishing effort in Steller sea lion protection areas could increase. At its August 2007 meeting, the Council affirmed that in its December 2006 recommendations, it had intended to maintain instantaneous MRA accounting for Pacific cod as well as Atka mackerel in both the BS and AI protection areas.

To further reduce topping-off, the Council also recommended that a new fishing trip begin or end any time a non-AFA trawl C/P enters or leaves a Steller sea lion protection area that is closed to directed fishing for Atka mackerel or Pacific cod. Currently a fishing trip is triggered when a vessel enters or exits an area where a different directed fishing prohibition applies, including Steller sea lion protection areas. However, when directed fishing for Pacific cod or Atka mackerel is closed both inside and outside a Steller sea lion protection area, entering or

exiting the Steller sea lion protection area does not trigger the start of a new fishing trip because the directed fishing prohibitions are the same. This allows vessels to retain Pacific cod or Atka mackerel caught inside a Steller sea lion protection area using target species (basis species) accumulated outside the Steller sea lion protection areas.

Requiring that a new fishing trip start each time a vessel enters or leaves a Steller sea lion protection area, regardless of the fishery closures that exist outside the Steller sea lion protection areas, limits the potential to top-off and target Pacific cod or Atka mackerel inside the protection areas. In addition, the new fishing trip trigger would assist NMFS in monitoring the two methods of MRA accounting that would apply inside the Steller sea lion protection areas (at the end of the trip for some species and at any point in time for other species). To institute the Council recommendations, NMFS proposes to revise the definition of a fishing trip at § 679.2 to add two new events that would trigger the end of a fishing trip for non-AFA trawl C/Ps. The proposed rule would amend the definition of a fishing trip at § 679.2 to require that a new fishing trip would start or end when a non-AFA trawl C/P entered or exited a Steller sea lion protection area that was closed to directed fishing for Pacific cod or Atka mackerel at § 679.22(a)(7)(i), (a)(7)(v), (a)(7)(vi), (a)(8)(i), (a)(8)(iv), and (a)(8)(v).

MRAs would always be applied or accounted for instantaneously during a non-AFA trawl C/P fishing trip to its retention of Atka mackerel and Pacific cod at § 679.20(e)(3)(iv). This provision would apply to any portion of a haul that occurs inside the Steller sea lion protection area described at § 679.22(a)(7)(i), (a)(7)(v), (a)(7)(vi), (a)(8)(i), (a)(8)(iv), and (a)(8)(v). If any portion of a haul made by a non-AFA trawl C/P occurred inside these Steller sea lion protection areas, then all the catch from that haul would be accounted for as a fishing trip that occurred inside the Steller sea lion protection area for purposes of calculating MRAs.

The purpose of the proposed MRA accounting requirements at § 679.20(e)(3)(iv) is to provide a verifiable account of retained catch for members of the non-AFA trawl C/P sector and NMFS, consistent with the intent of Steller sea lion protection measures. These proposed requirements would provide clear instructions to operators for calculating retained catch from a tow that occurs wholly or partially in a Steller sea lion protection

area. The requirement would also assist NOAA Office for Law Enforcement and the U.S. Coast Guard in monitoring compliance of retained catch for Pacific cod and Atka mackerel. It would better ensure compliance with Steller sea lion protection measures that prohibit directed fishing for these species in Steller sea lion protection areas because MRA accounting for these species would be applied at any time during a fishing trip inside protection areas. This MRA accounting regulation would continue to provide flexibility for a vessel to haul through a Steller sea lion protection area without retrieving gear and starting a new haul.

Revision to definition for "fishing trip". The definition of a fishing trip in § 679.2 would also be amended to require that a new fishing trip would start for a non-AFA trawl C/P when "any(fish or fish products are offloaded or transferred. This requirement would modify the current requirement that a fishing trip is triggered by the offload or transfer of (all(fish or fish product from the vessel, and would prevent partial offloads by non-AFA trawl C/P for purposes of calculating MRA amounts. Because MRA accounting for non-AFA trawl C/Ps would occur at the end of a fishing trip, partial offloads of groundfish that do not trigger a new fishing trip could reduce the effectiveness of MRA accounting for this sector. For example, if the offload consisted predominantly of groundfish that were closed to directed fishing, without offload of sufficient basis species to comply with the MRA, a vessel could then return to the fishing grounds numerous times and avoid matching the designated amount of basis and incidental amounts defined by an MRA. That vessel could continue this practice to avoid complying with an MRA and would not be in violation of MRA regulations.

Compliance with proposed MRA revisions. Compliance with MRA accounting at the end of a fishing trip would be monitored with the same reporting forms that are used for monitoring current MRA regulations. The trawl C/P Daily Cumulative Production Logbook and processed product onboard a vessel could be audited by enforcement officers during a vessel boarding. The uncertainty associated with unscheduled boardings and audits of retained catch would facilitate C/P compliance with MRA restrictions under the proposed rule. NOAA Office of Law Enforcement also would be able to review logbook and production reports submitted by the vessel operator to track and identify

intentional or unintentional MRA violations.

Conservation issues associated with proposed MRA revisions. Relaxed MRA accounting should not lead to an increase in catch for most groundfish species in the BSAI. The draft Environmental Assessment supporting this action concluded that these MRA proposals would not increase the risk of exceeding a TAC, cause conservation concerns, interfere with associated management objectives, or be unenforceable.

Other Proposed Regulatory Amendments. At § 679.20(e)(3)(iii), the citation defining which vessels qualify as non-AFA trawl C/Ps, would be revised. When the AFA was authorized by the Secretary of Commerce in FMP Amendments 61/61/13/8 (67 FR 79692, December 30, 2002), most AFA qualified trawl C/Ps were listed at § 679.4(l)(2)(i). For purposes of this action, non-AFA trawl C/Ps would be those trawl C/P vessels that are not listed at § 679.4(l)(2)(i). The proposed rule clarifies this definition of non-AFA trawl C/Ps in both § 679.2 and § 679.20(e)(3)(iii).

At § 679.20(d)(l)(iii)(B), the list of exceptions to the requirement to calculate MRAs at any time during a fishing trip, is expanded to include the proposed requirements at § 679.20(e)(3).

The definition of a "fishing trip" would be reorganized at § 679.2(l)(i) to clarify when a catcher/processor vessel or mothership is engaged in a fishing trip. At § 679.2(l)(i)(B) the sentence identifying that offload and transfer of fish product is one trigger for a fishing trip is also reorganized. These are both technical changes that reorganize the presentation of the correct fishing trip triggers but do not make substantive changes in these requirements.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Regional Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, the reasons why it is being

considered, and a statement of the objectives of 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. A summary of the analysis follows. A copy of this analysis is available from NMFS (see ADDRESSES).

The directly regulated entities are the commercial fishing entities that operate non-AFA trawl C/P vessels in the BSAI groundfish fisheries. Under a conservative application of the Small Business Administration criterion and the best available data, the total number of small entities directly regulated by the proposed action is estimated as three out of a total of 22 vessels participating in 2006.

Impacts to small entities, while uncertain, are anticipated to be beneficial. This proposed rule is likely to reduce the burden of existing MRA accounting restrictions on the non-AFA trawl C/P sector by increasing the amount of time that these operations have to comply with MRAs for a selected group of species.

Each of the action alternatives would provide additional opportunity for non-AFA trawl C/P vessels to increase retention of selected groundfish species. Alternative 1 (no action), would continue to apply the current instantaneous MRA accounting regulations. These regulations require that for all groundfish other than pollock, an MRA may not be exceeded at any point during a fishing trip. The existing accounting and enforcement of MRAs may result in some small and large entity non-AFA trawl C/Ps selectively discarding incidentally caught species so as to not exceed the instantaneously enforced MRA. In some years, this constraint could result in additional discards of groundfish that would otherwise be retained.

The Council also considered Alternatives 2 and 3 for relaxing MRA accounting and several species options to include within these alternatives. Alternative 2 would change the time interval for accounting for selected species that may be retained in the BSAI, including Steller sea lion protection areas, to the end of a fishing trip. This alternative is intended to increase the time allowed for an entity to meet required retention percentages published in regulation, but lacks the instantaneously applied MRA accounting requirements, additional trip triggers, and C/P reporting requirements anytime a non-AFA trawl C/P enters or leaves a Steller sea lion protection area, included in Alternative 4.

Under Alternative 3, MRA accounting would be extended beyond a weekly

reporting period to the time of offload which may increase the amount of species harvested when that species is closed to directed fishing. More frequently, larger vessels in the non-AFA trawl C/P sector offload every 6 to 7 days, while smaller vessels may offload every 7 to 10 days. Absent any other trip ending events, a trip could increase to as many as 10 days. The IRFA discusses a significant monitoring and enforcement issue with Alternative 3. Compliance monitoring of offload-based accounting would depend upon inspection of holds and product by NOAA Office of Law Enforcement primarily at the point of offload. The longer interval of time to comply with an MRA under in this alternative could provide a vessel operator with some incentive to inaccurately report weekly production, if that person believed that no enforcement officer would be present at the point of landing.

Alternative 4 is the preferred alternative selected by the Council. This alternative would allow non-AFA trawl C/Ps to apply MRAs at the end of a fishing trip for 8 species of groundfish to provide greater flexibility for operators to retain groundfish species in the BSAI without creating some of the enforcement and management concerns associated with Alternatives 2 and 3.

Small entities may have greater flexibility to improve the value of a fishing trip under Alternative 2 or 3 compared with the preferred alternative; however the EA for this action identified a concern for Steller sea lions under these two alternatives. It is possible that localized depletion of Atka mackerel and Pacific cod in Steller sea lion protected areas could occur under Alternatives 2 and 3 if vessels in the non-AFA trawl C/P sector were to increase catch of these two groundfish species during a fishing trip. This could lead to further consultation under the Endangered Species Act for Steller sea lions. The preferred alternative, in contrast, retains the status quo MRA accounting in Steller sea lion protection areas for Atka mackerel and Pacific cod. NMFS cannot determine the impacts on distribution of catch or impacts on communities of any of the alternatives because these regulatory alternatives are not anticipated to significantly change the total amount of groundfish processed or delivered to communities compared with existing management measures implemented for BSAI groundfish fisheries. Changes in economic activity within a given community could result from slightly larger, or a different, distribution of offloaded products, but the magnitude

of the change between any of the alternatives is expected to be small.

The operator of a non-AFA trawl catcher/processor would be required at § 679.5 to start a new C/P trawl gear daily cumulative production logbook page (logsheet) at the beginning of each fishing trip. This information would be required to properly aggregate production by fishing trip and to assist both the vessel operator and authorized officers to monitor compliance of MRAs.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by OMB under Control Number 0648-0213. Public reporting burden for the catcher/processor trawl gear daily fishing cumulative logbook is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (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, and no person shall 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 679

Alaska, Fisheries.

Dated: February 9, 2009.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108(199, 118 Stat. 110.

2. In § 679.2, under the definition of "Fishing trip", revise paragraphs (1)(i) introductory text, (1)(i)(B), (1)(i)(E), and (1)(ii) and add paragraph (1)(iii) to read as follows:

§ 679.2 Definitions.

* * * * *

Fishing trip means:

(1) * * *

(i) For all catcher/processor vessels or motherships. Except as provided in paragraph (1)(ii) of this definition, an operator of a catcher/processor or mothership is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed in an area until any of the following events occur:

* * * * *

(B) All fish or fish product are offloaded or transferred from that vessel;

* * * * *

(E) The end of a weekly reporting period.

(ii) For non-AFA trawl catcher/processors. For those catcher/processors using trawl gear and not listed at § 679.4(l)(2)(i), a new fishing trip begins from the time the harvesting, receiving, or processing of groundfish is begun in an area until any of the following events occur:

(A) Any of the events listed in paragraphs (1)(i)(A) through (E) of this definition;

(B) The vessel enters or leaves a Steller sea lion protection area described at § 679.22(a)(7)(i), (a)(7)(v), (a)(7)(vi), (a)(8)(i), (a)(8)(iv), and (a)(8)(v); or

(C) Any fish or fish product are offloaded or transferred from that vessel.

(iii) *Catcher vessels*. A catcher vessel is engaged in a fishing trip from the time the harvesting of groundfish is begun until the offload or transfer of all fish or fish product from that vessel.

* * * * *

3. In § 679.5, paragraph (c)(4)(iv)(B)(3) is added to read as follows:

(e) * * *

(3) * * *

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(c) * * *

(4) * * *

(iv) * * *

(B) * * *

(3) For non-AFA trawl catcher/processors. The operator of a catcher/processor using trawl gear and not listed at § 679.4(l)(2)(i) must start a separate logsheet page at the beginning of a new fishing trip as defined at § 679.2. If a logsheet page represents the start of a new fishing trip, write "Start of a new fishing trip" in the Comments section of the logsheet page.

* * * * *

4. In § 679.20, revise paragraph (d)(1)(iii)(B), (e)(3)(ii), the first sentence of paragraph (e)(3)(iii) and add paragraph (e)(3)(iv) to read as follows:

§ 679.20 General limitations.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(B) *Retention of incidental species*. Except as described in paragraphs (e)(3)(iii) and (iv) of this section, if directed fishing for a target species, species group, or the "other species" category is prohibited, a vessel may not retain that incidental species in an amount that exceeds the maximum retainable amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.

* * * * *

(ii) Except as provided in paragraphs (e)(3)(iii) and (iv) of this section, for catcher/processors fishing in an area closed to directed fishing for a species or a species group, the maximum retainable amount applies at any time during a fishing trip.

(iii) For all vessels not listed in § 679.4(l)(2)(i), the maximum retainable amount for pollock harvested in the BSAI applies at the end of each offload and is based on the basis species harvested since the previous offload. *

(iv) For catcher/processors using trawl gear and not listed in § 679.4(l)(2)(i), the maximum retainable amounts for yellowfin sole, flathead sole, other flatfish, rock sole, arrowtooth flounder, Atka mackerel, and Pacific cod in the BSAI, and Pacific ocean perch in the AI apply at the end of a fishing trip, except the MRA for Pacific cod and Atka mackerel apply at any point in time during a fishing trip inside the Steller sea lion protection areas described at § 679.22(a)(7)(i), (a)(7)(v), (a)(7)(vi), (a)(8)(i), (a)(8)(iv), and (a)(8)(v). In addition, if any portion of a trawl haul is from inside these Steller sea lion protection areas, then all of the catch from that haul must be attributed to the fishing trip that occurred inside the Steller sea lion protection area for purposes of calculating maximum retainable amounts.

* * * * *

[FR Doc. E9-3184 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 74, No. 29

Friday, February 13, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee, Custer, SD

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and Public Law 110-343, enacted on October 3, 2008, reauthorizing and amending the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393), the Black Hills National Forest Custer County Resource Advisory Committee will meet on Wednesday, February 25, 2009 in Custer, South Dakota. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The meeting on February 25, 2009 will begin at 6:30 p.m. at the Black Hills National Forest Supervisor's Office at 25041 North Highway 16, Custer, South Dakota. Agenda topics will be Status of Legislation and 2009 Title II projects.

FOR FURTHER INFORMATION CONTACT: Kelly Honors, Acting Hell Canyon District Ranger and Designated Federal Official, at 605-673-4853.

Kelly Honors,

Acting District Ranger.

[FR Doc. E9-2996 Filed 2-12-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act

(Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on February 19 at 7 p.m. in Thompson Falls, Montana for a business meeting. The meeting is open to the public.

DATES: February 19, 2009.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Randy Hojem, Designated Federal Official (DFO), District Ranger, Plains Ranger District, Lolo National Forest at (406) 826-3821.

SUPPLEMENTARY INFORMATION: Agenda topics include recommendations on new RAC project proposals, reviewing progress on current projects, and receiving public comment. If the meeting location is changed, notice will be posted in the local newspapers, including the Clark Fork Valley Press, and Sanders County Ledger.

Dated: February 3, 2009.

Randy Hojem,

DFO, Plains Ranger District, Lolo National Forest.

[FR Doc. E9-3094 Filed 2-12-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet in Yreka, California to conduct routine business associated with requesting proposals consistent with the Secure Rural Schools and Community Self-Determination Act.

DATES: All meetings will be held on the third Monday of each month in calendar year 2009 beginning March 16, 2009. Meetings will convene at 4 p.m. and adjourn as near to 6 p.m. as possible.

ADDRESSES: The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Davida Carnahan, Forest RAC coordinator, Klamath National Forest, (530) 841-4485 or electronically at dcarnahan@fs.fed.us.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: February 4, 2009.

Patricia A. Grantham,

Designated Federal Official.

[FR Doc. E9-3077 Filed 2-12-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Memorandum of Understanding Between the Forest Service, U.S. Department of Agriculture and the U.S. Fish and Wildlife Service To Promote the Conservation of Migratory Birds

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: This notice is to inform the public of a Memorandum of Understanding (MOU) between the Forest Service, U.S. Department of Agriculture, and the U.S. Fish and Wildlife Service, signed December 8, 2008, to promote the conservation of migratory birds. Pursuant to Executive Order (E.O.) 13186 (January 17, 2001), "Responsibilities of Federal Agencies to Protect Migratory Birds," this MOU outlines a collaborative approach to promote the conservation of migratory bird populations. It does not authorize the "take" of migratory birds. Take, as defined in 50 CFR 10.12 regarding all wildlife and plants, means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. This MOU identifies specific activities where cooperation between the Parties will contribute substantially to the conservation of migratory birds and their habitats.

The complete text of the MOU is available at http://www.fs.fed.us/biology/resources/pubs/mou_moa.html.

DATES: This notice is effective February 13, 2009. The MOU went into effect

December 8, 2008, and shall remain in effect for a period of five years.

FOR FURTHER INFORMATION CONTACT:

Anne Zimmermann, USDA Forest Service, Director of Watershed, Fish, and Wildlife, Mailstop 1121, 201 14th St., SW., Washington, DC 20024.

Individuals who use telecommunication devices 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 Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 10, 2001, President Clinton signed E.O. 13186, which described the responsibilities of federal agencies to protect migratory birds. One of the requirements of E.O. 13186 is that "Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement * * * a Memorandum of Understanding with the Fish and Wildlife Service that shall promote the conservation of migratory bird populations." Section 3(g) of the E.O. states that "Each agency shall advise the public of the availability of its MOU through a notice published in the *Federal Register*." This notice fulfills the requirements of Section 3(g) of E.O. 13186. The E.O. is posted at <http://ceq.hss.doe.gov/nepa/regs/eos/eo13186.html>.

Dated: February 9, 2009.

Gloria Manning,

Associate Deputy Chief, National Forest System.

[FR Doc. E9-3118 Filed 2-12-09; 8:45 am]

BILLING CODE 3410-11-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Correction of Notice

Correction of Notice of Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Initial Certification:

On pages 5913 and 5914, FR Doc E9-2230, the Committee published and included as part of its information collection references to 41 CFR 51-4.2 Initial Certification.

This Notice of Information Collection correction replaces all references to 41 CFR 51-4.2 Initial Certification with 41 CFR 51-4.3 Annual Certification.

Barry S. Lineback,

Acting Director, Program Operations.

[FR Doc. E9-3142 Filed 2-12-09; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from Procurement List.

SUMMARY: The Committee is proposing to delete from the Procurement List products and services previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: 3/15/2009.

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.

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 will not result in authorizing small entities to furnish the product 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 deletion from the Procurement List.

End of Certification

The following product and services are proposed for deletion from the Procurement List:

Product

Sponge, Surgical

NSN: 6510-00-116-1285—Sponge, Surgical.

NPA: UNKNOWN (No Producing Agency).
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Support Service (Recreation Aide), Altus Air Force Base: 97th Air Mobility Wing, 303 J Avenue, Bldg. 302, Altus AFB, OK.

NPA: Dale Rogers Training Center, Inc., Oklahoma City, OK.

Contracting Activity: Dept of the Air Force, FA4419 97 CONS CC.

Service Type/Location: Food Service Attendant, Alabama Air National Guard: 176 Ira Drive, 226th Communication Group, 176 Ira Gray Drive, Gadsden, AL.

NPA: Alabama Goodwill Industries, Inc., Birmingham, AL.

Contracting Activity: Dept of the Army, XRAW7MT USPFO Activity AL ARNG.

Barry S. Lineback,

Acting Director, Program Operations.

[FR Doc. E9-3140 Filed 2-12-09; 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 services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* March 15, 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 11/7/2008 and 12/5/2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (73 FR 66216-66217 and 73 FR 74138, respectively) of proposed additions to the Procurement List. No comments were received in response to the Proposed Additional Federal Register Notices.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions

on the current or most recent contractors, the Committee has determined that the 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 services to the Government.

2. The action will result in authorizing small entities to furnish the 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 services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Furniture Rehabilitation, Parris Island USMC Depot, USMC Recruit Depot, Parris Island, SC.

NPA: Beaufort Vocational Rehabilitation Center, Beaufort, SC.

Contracting Activity: Dept. of the Navy, Commanding General.

Service Type/Location: Reception Service Support, Fort Campbell, Post Wide, Fort Campbell, KY.

Service Type/Location: Reception Service Support, Fort Bragg, Post Wide, Fort Bragg, NC.

NPA: Employment Source, Inc., Fayetteville, NC (Prime-contractor).

Contracting Activity: Dept. of the Army, XR W6BB Ft. Bragg.

Service Type/Location: Reception Service Support, Fort Bliss, Post Wide, Fort Bliss, TX.

NPA: Tresco, Inc., Las Cruces, NM (Sub-contractor).

NPA: Employment Source, Inc., Fayetteville, NC (Prime-contractor).

Contracting Activity: Dept. of the Army, XR W6BB Ft. Bragg.

Service Type/Location: Reception Service Support, Fort Sill, Post Wide, Fort Sill, OK.

NPA: Work Services Corporation, Wichita Falls, TX (Sub-contractor).

NPA: Employment Source, Inc., Fayetteville, NC (Prime-contractor).

Contracting Activity: Dept. of the Army, XR W6BB Ft. Bragg.

Service Type/Location: Reception Service Support, Fort Hood, Post Wide, Fort

Hood, TX.

NPA: Professional Contract Services, Inc., Austin, TX (Sub-contractor).

NPA: Employment Source, Inc., Fayetteville, NC (Prime-contractor).

Contracting Activity: Dept. of the Army, XR W6BB Ft. Bragg.

Service Type/Location: Reception Service Support, Fort Lewis, Post Wide, Fort Lewis, WA.

NPA: Skookum Educational Programs, Bremerton, WA (Sub-contractor).

NPA: Employment Source, Inc., Fayetteville, NC (Prime-contractor).

Contracting Activity: Dept. of the Army, XR W6BB Ft. Bragg.

Barry S. Lineback,

Acting Director, Program Operations.

[FR Doc. E9-3141 Filed 2-12-09; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Correction of Notice

The Committee for Purchase From People Who Are Blind or Severely Disabled published on August 8, 2008 at 73 FR 46244-46245 Notice of actions to add services to the Procurement List which included an incorrect nonprofit agency as authorized Sub-Contractor for Mailroom Operations at 880 Front Street, San Diego, CA for the Internal Revenue Service (FR Doc. E8-18363, Filed 8-7-08).

This Notice corrects the authorized nonprofit agency as San Diego Outsourcing Systems, Inc., San Diego, CA (Sub-Contractor) to replace Goodwill Industries of Southern California, Los Angeles, CA.

The Committee for Purchase From People Who Are Blind or Severely Disabled published on January 30, 2009 at 74 FR 5636-5637 Notice of actions to propose products and services for addition to and deletion from the Procurement List which included an incorrect nonprofit agency as authorized producer of Liner, Parka, U.S. Navy in 26 sizes listed by National Stock Number (FR Doc. E9-2032, Filed 1-29-09).

This Notice corrects the authorized nonprofit agency as Bestwork Industries for the Blind, Inc., Runnemede, NJ to replace Winston-Salem Industries for the Blind, Winston-Salem, NC.

Barry S. Lineback,

Acting Director, Program Operations.

[FR Doc. E9-3138 Filed 2-12-09; 8:45 am]

BILLING CODE 6353-01-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 Institute of Standards and Technology (NIST).

Title: Technology Innovation Program Application Requirements.

OMB Control Number: 0693-0050.

Form Number(s): NIST-1022.

Type of Request: Regular submission.

Burden Hours: 11,100.

Number of Respondents: 300.

Average Hours per Response: 37.

Needs and Uses: The Technology Innovation Program (TIP) is a competitive cost-sharing program designed to assist U.S. businesses and institutions of higher education or other organizations, such as national laboratories, governmental laboratories (not including NIST), and nonprofit research institutes, to support, promote, and accelerate innovation in the United States through high-risk, high-reward research in areas of critical national need. This request is for the information collection requirements associated with submission of proposals for TIP funding. The intent of collection is to meet statutory requirements for TIP, as well as compliance with 15 CFR Part 14.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal Government.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395-3123.

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 6625, 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 Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395-5167 or via the Internet at Jasmeet_K_Seehra@omb.eop.gov.

Dated: February 9, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-3071 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

(Docket T-5-2008)

Foreign-Trade Zone 122 - Corpus Christi, Texas, Application for Temporary/Interim Manufacturing Authority, Excalibar Minerals, LLC, (Barite Milling), Notice of Approval

On November 20, 2008, an application was filed by the Executive Secretary of the Foreign-Trade Zones (FTZ) Board submitted by the Port of Corpus Christi Authority, grantee of FTZ 122, requesting temporary/interim manufacturing (T/IM) authority on behalf of Excalibar Minerals LLC (Excalibar) to perform barite milling under FTZ procedures within FTZ 122 - Site 1, in Corpus Christi, Texas.

The application has been processed in accordance with T/IM procedures, as authorized by FTZ Board Orders 1347 (69 FR 52857, 8/30/2004) and 1480 (71 FR 55422, 9/22/06), including notice in the *Federal Register* inviting public comment (73 FR 73242, 12/2/2008). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. The foreign-origin component approved for this activity is raw barite (2511.10). Pursuant to the authority delegated to the FTZ Board Executive Secretary in the above-referenced Board Orders, the application is approved, effective this date, until February 5, 2011, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: February 5, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-3165 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-549-807

Carbon Steel Butt-Weld Pipe Fittings from Thailand: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 26, 2008, in response to a request from Thai Benkan Co., Ltd. (TBC), the Department of Commerce (the Department) published a notice of initiation of the administrative review of the antidumping duty order on certain carbon steel butt-weld pipe fittings from Thailand for the period of July 1, 2007, through June 30, 2008. Because the sole request for review has been withdrawn, we are rescinding this review.

EFFECTIVE DATE: February 13, 2009.

FOR FURTHER INFORMATION: Thomas Schauer or Minoö Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0410 or (202) 482-1690.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2008, in response to a request from TBC, a Thai producer of the subject merchandise, the Department published a notice of initiation of administrative review of the antidumping duty order on certain carbon steel butt-weld pipe fittings from Thailand. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 50308 (August 26, 2008). On January 15, 2009, TBC withdrew its request for an administrative review. See letter from TBC dated January 15, 2009.

Rescission of Review

In accordance with 19 CFR 351.213(d)(1) the Department will rescind an administrative review "if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so." Although we did not receive TBC's withdrawal letter within the 90-day time limit, we determine it is reasonable to accept this letter of withdrawal because we have

not expended significant resources in the conduct of this review and because we received no other requests for the review of TBC. Accordingly, the Department is rescinding this review pursuant to 19 CFR 351.213(d)(1). The Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after the date of publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this rescission in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 9, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-3175 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Proposed Information Collection; Comment Request; Online Performance Database, Online Phoenix Database, and Online Opportunity Database

AGENCY: Minority Business Development Agency (MBDA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 14, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via electronic mail at: dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for copies of the information collection instrument and instructions should be directed to Efrain Gonzalez, Chief, MBDA Office of Business Development, (202) 482-1940, or via electronic mail at: egonzalez@mbda.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Currently, as part of its service delivery programs, MBDA awards cooperative agreements each year. The recipient of each agreement is competitively selected to operate one of the following business centers: (1) Minority Business Enterprise Center (MBEC); (2) Native American Business Enterprise Center (NABEC); or (3) Minority Business Opportunity Center (MBOC) in the geographical service area designated by MBDA under the cooperative agreement. In accordance with the Government Performance Results Act (GPRA), MBDA requires center operators to report client service activities quarterly (Performance Database); to list minority Business Enterprises (MBEs) doing business in the United States (Phoenix Database); and to match those MBEs with opportunities entered in the system by public and private sector entities (Opportunity Database).

II. Method of Collection

Electronic transfer of data.

III. Data

OMB Control Number: 0640-0002.
Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; individuals or households; Federal, State, Local or Tribal government.

Estimated Number of Respondents: 10,615.

Estimated Time per Response: 1 to 210 minutes, depending on the function.

Estimated Total Annual Burden Hours: 7,802.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of MBDA, including whether the information has practical utility; (b) the accuracy of MBDA's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 9, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-3072 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-21-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648-XN30

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Committee, in March, 2009, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, March 3, 2009, at 9:30 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339-2200; fax: (508) 339-1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION: The Committee will review Atlantic Wolffish Essential Fish Habitat (EFH) options as well as review and approve Omnibus Phase 2 Vulnerability Assessment document for submission to the Council's Science and Statistical Committee. The Committee may also consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 10, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9-3122 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XN29

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Scientific and Statistical Committee (SSC), Standard Operating, Policy and Procedure (SOPPs) Committee, a joint meeting of

its Executive and Finance Committees, Limited Access Privilege Program (LAPP) Committee, Golden Crab Committee, Mackerel Committee, Dolphin/Wahoo Committee, Shrimp Committee, SSC Selection Committee (Closed Session), joint Ecosystem-Based Management and Habitat Committees, Spiny Lobster Committee, Snapper Grouper Committee, and a meeting of the full Council.

The Council will also hold a an informal public question and answer session, a public comment period on the Fishery Ecosystem Plan, and may hold a public comment session regarding Interim Rule measures to address overfishing of red snapper if the Council considers an Interim Rule request. See **SUPPLEMENTARY INFORMATION** for additional details.

DATES: The meeting will be held March 2–6, 2009. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Jekyll Island Club Hotel, 371 Riverview Drive, Jekyll Island, GA 31527; Telephone: 800/535–9547 or 912/635–2600; Fax 912/635–2818. Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: 843/571–4366 or toll free at 866/SAFMC–10; fax: 843/769–4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION:

Meeting Dates:

1. *Scientific and Statistical Committee (SSC) Meeting: March 2, 2009, 9:00 a.m. until 5:00 p.m.; March 3, 2009, 8:30 a.m.—5:00 p.m.; March 4, 2009, 8:30 a.m.—5:00 p.m., (Concurrent Sessions)*

The SSC will discuss the process for establishing Overfishing Limits and Acceptable Biological Catch levels for assessed stocks, stocks under rebuilding plans, and stocks without assessments.

2. *SOPPs Committee Meeting: March 2, 2009, 1:30 p.m. until 2:30 p.m.* The SOPPs Committee will review the proposed rule addressing Council SOPPs, receive an update on the status of Secretarial review of Council SOPPs and develop changes as necessary.

3. *Joint Executive and Finance Committees Meeting: March 2, 2009, 2:30 p.m. until 3:30 p.m.* The Executive Committee and Finance Committee will meet jointly to review the status of the Calendar Year (CY) budget, the status of the Fiscal Year 2009 President's/ Congressional budget, and approve the

CY 2009 budget (if the Council's funding level has been determined by the time of the meeting).

4. *LAPP Committee Meeting: March 2, 2009, 3:30 p.m. until 5:30 p.m.* The LAPP Committee will receive a summary of a recent meeting with golden crab fishermen, review comments received during public scoping, and provide direction to staff.

NOTE: There will be an informal public question and answer session with NOAA Fisheries Services' Regional Administrator and the Council Chairman on March 2, 2009 beginning at 5:30 p.m.

5. *Golden Crab Committee Meeting: March 3, 2009, 8:30 a.m. until 10:00 a.m.* The Golden Crab Committee will receive a summary of a recent meeting with golden crab fishermen, review comments received during public scoping, and provide direction to staff.

6. *King and Spanish Mackerel Committee Meeting: March 3, 2009, 10:00 a.m. until 12:00 noon.* The Mackerel Committee will review the Gulf of Mexico Fishery Management Council's work schedule regarding mackerel, review comments received during public scoping, and provide direction to staff.

7. *Dolphin/Wahoo Committee Meeting: March 3, 2009, 1:30 p.m. until 2:30 p.m.* The Dolphin/Wahoo Committee will review comments received during public scoping and provide direction to staff.

8. *Shrimp Committee Meeting: March 3, 2009, 2:30 p.m. until 3:30 p.m.* The Shrimp Committee will review the status of overwintering shrimp, review comments received during public scoping, and provide direction to staff.

9. *SSC Selection Committee Meeting (Closed Session): March 3, 2009, 3:30 p.m. until 5:00 p.m.* The SSC Selection Committee will review membership, discuss policy issues and modify as appropriate.

10. *Joint Ecosystem-Based Management Committee and Habitat Committee Meeting: March 4, 2009, 8:30 a.m. until 10:30 a.m.* The Ecosystem-Based Committee and Habitat Committee will meet jointly to review public comments, revise the Fishery Ecosystem Plan (FEP) as appropriate and recommend the FEP for formal review. The Committees will also review public comments and revise the Comprehensive Ecosystem-Based Amendment 1 as appropriate. The Committees will review public scoping comments on the Comprehensive Ecosystem-Based Amendment 2 and provide direction to staff. The Committees will receive a presentation regarding live rock and coral, a report

on the International Coral Symposium, and an update on the South Atlantic Alliance. The Committee will also discuss habitat issues as appropriate.

11. *Spiny Lobster Committee Meeting: March 4, 2009, 10:30 a.m. until 12:00 noon* The Spiny Lobster Committee will receive a report on the status of the Import Amendment, discuss the Gulf of Mexico Fishery Management Council's timing and schedule for Amendment 5 to the Spiny Lobster Fishery Management Plan, review public scoping comments, and provide direction to staff.

12. *Snapper Grouper Committee Meeting: March 4 2009, 1:30 p.m. until 5:00 p.m. and March 5, 2009, 8:00 a.m.—12:00 noon.* The Snapper Grouper Committee will receive an update on Oculina Bank monitoring activities, a presentation on the discard mortality of black sea bass, and review a request regarding draft regulations for Gray's Reef Research Area. The Committee will also review Snapper Grouper Amendment 17 and provide direction to staff. The Committee will discuss a possible request for an interim rule to address overfishing of red snapper and provide recommendations to the Council, review scoping comments received on Snapper Grouper Amendment 18 and the Comprehensive Annual Catch Limit Amendment, and provide direction to staff.

* * * * *
12. *Council Session: March 5, 2009, 1:30 p.m. until 5:15 p.m. and March 6, 2009, 8:30 a.m. until 10:00 a.m. Council Session: March 5, 2009, 1:30 p.m. until 5:15 p.m.*

From 1:30 p.m.—1:45 p.m., the Council will call the meeting to order, adopt the agenda, and approve the December 2008 meeting minutes.

From 1:45 p.m.—2:30 p.m., the Council will hear a report from the Snapper Grouper Committee. The Council will provide its decision on submitting a Red Snapper Interim Rule request to the Secretary of Commerce. The Council will also consider other Committee recommendations and take action as appropriate.

Note: A public comment session will be held at 1:45 p.m. regarding an Interim Rule for addressing overfishing of red snapper if the Council considers an Interim Rule request.

From 2:30 p.m.—3:00 p.m., the Council will receive a report from the joint Ecosystem-Based Management and Habitat Committees, review public comment on the Fishery Ecosystem Plan, consider recommendations from the joint Committees and take action as appropriate. Note: A public comment

session will be held at 2:30 p.m. or immediately following the Snapper Grouper Committee Report regarding the Fishery Ecosystem Plan.

From 3:00 p.m.—3:15 p.m., the Council will receive a report from the SOPPs Committee and take action as appropriate.

From 3:15 p.m.—3:30 p.m., the Council will receive a report from the joint Executive/Finance Committees meeting, approve the CY 2009 budget (as necessary), consider other Committee recommendations and take action as appropriate.

From 3:30 p.m.—3:45 p.m., the Council will receive a report from the LAPP Committee and take action as appropriate.

From 3:45 p.m.—4:00 p.m., the Council will receive a report from the Golden Crab Committee and take action as appropriate.

From 4:00 p.m.—4:15 p.m., the Council will receive a report from the Mackerel Committee and take action as appropriate.

From 4:15 p.m.—4:30 p.m., the Council will receive a report from the Dolphin/Wahoo Committee and take action as appropriate.

From 4:30 p.m.—4:45 p.m., the Council will receive a report from the Shrimp Committee and take action as appropriate.

From 4:45 p.m.—5:00 p.m., the Council will receive a report from the Spiny Lobster Committee and take action as appropriate.

From 5:00 p.m.—5:15 p.m., the Council will review and develop recommendations on Experimental Permit requests as necessary. Council Session: March 6, 2009, 8:30 a.m. until 10:00 a.m.

From 8:30 a.m.—10:00 a.m., the Council will receive status reports from NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, agency and liaison reports, and discuss other business including upcoming meetings.

* * * * *

Documents regarding these issues are available from the Council office (see ADDRESSES).

* * * * *

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal final 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 the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see ADDRESSES) by February 27, 2009.

Dated: February 10, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9-3101 Filed 2-12-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; Graduate Assistance in Areas of National Need (GAANN); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.200A.

Dates:

Applications Available: February 13, 2009.

Deadline for Transmittal of Applications: March 16, 2009.

Deadline for Intergovernmental Review: May 15, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides fellowships in areas of national need to assist graduate students with excellent academic records who demonstrate financial need and plan to pursue the highest degree available in their courses of study at the institution.

Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from the regulations for this program (34 CFR 648.33(a) and Appendix to part 648—Academic Areas).

Absolute Priority: For FY 2009, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Areas of National Need: A project must provide fellowships in one or more of the following areas of national need: Biology, Chemistry, Computer and Information Sciences, Engineering, Mathematics, Nursing, Physics, and Educational Assessment, Evaluation, and Research.

Within this absolute priority, the Secretary is particularly interested in applications that address the following invitational priority:

Invitational Priority: Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is: Educational Assessment, Evaluation, and Research Programs that focus on preparing students at the Master's or Ph.D. level who will be trained in statistics and measurement theory to become psychometricians. These psychometrics programs focus on the principles and procedures for designing, developing, implementing, and evaluating test and other mechanisms used to measure learning, evaluate student progress, and assess the performance of specific teaching tools, strategies and curricula.

Program Authority: 20 U.S.C. 1135.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR Part 648.

II. Award Information

Type of Award: Discretionary grants, redistributed as fellowships to individual fellows.

Estimated Available Funds: We estimate that \$22,773,000 will be available for new awards for this program in FY 2009. The actual level of funding, if any, depends on final Congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: \$128,628–\$214,380.

Estimated Average Size of Awards: \$213,000.

Estimated Number of Awards: 107.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Stipend Level: The Secretary will determine the fellowship stipend for GAANN for the academic year 2009–2010 based on the level of support provided by the graduate fellowships of the National Science Foundation, as of February 1, 2009. However, the Secretary will adjust the amount, as necessary, so as not to exceed the fellow's demonstrated level of financial need as calculated for purposes of the Federal Student Financial Aid Programs under Title IV, Part F of the Higher Education Act of 1965, as amended.

Institutional Payment: The Secretary will determine the institutional

payment for the academic year 2009–2010 by adjusting the previous academic year institutional payment, which is \$12,876 per fellow, by the U.S. Department of Labor's Consumer Price Index for the 2008 calendar year.

III. Eligibility Information

1. *Eligible Applicants:* Academic departments of institutions of higher education that meet the requirements in 34 CFR 648.2.

2. *Cost Sharing or Matching:* This program involves matching (See 34 CFR 648.7).

3. *Other:* For requirements relating to selecting fellows, see 34 CFR 648.40.

IV. Application and Submission Information

1. *Address to Request Application Package:* Gary Thomas, U.S. Department of Education, 1990 K Street, NW., room 6016, Washington, DC 20006–8524. Telephone (202) 502–7767; or, by e-mail: gary.thomas@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotope, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative, Part II of the application, is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative, Part II, as follows:

- An application in a single discipline must be limited to the equivalent of no more than 40 pages.
- An inter-disciplinary application must be limited to the equivalent of no more than 60 pages. An inter-disciplinary application must request funding for a single proposed program of study that involves two or more academic disciplines.
- A multi-disciplinary application must be limited to the equivalent of no more than 40 pages for each academic department included in the proposal. A multi-disciplinary application must request funding for two or more academic departments in areas of national need designated as priorities by the Secretary that are independent and unrelated to one another.

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1” margin.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. However, you may single space all text in charts, tables, figures, and graphs. Charts, tables, figures, and graphs presented in the application narrative count toward the page limit.

- Use a font that is either 12-point or larger; or, no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

- Appendices are limited to the following: Curriculum Vitae—no more than two pages per faculty member, a course listing, letters of support, a bibliography, and one additional optional appendix relevant to the support of the proposal, not to exceed five pages.

The page limit does not apply to Part I, the Application for Federal Assistance (SF 424); the Supplemental Information Form required by the Department of Education; Part III, the assurances and certifications; the GAANN Statutory Assurance Form; the GAANN Budget Spreadsheet(s) form; the one-page abstract or the appendices. The page limit also does not apply to the table of contents, if you include one. However, you must include all of the application narrative in Part II.

We will reject your application if you exceed the page limit.

3. Submission Dates and Times:

Applications Available: February 13, 2009.

Deadline for Transmittal of Applications: March 16, 2009.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to Section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: May 15, 2009.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 648.64. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications.

Applications for grants under the GAANN Competition, CFDA number 84.200A, must be submitted electronically using the Governmentwide Grants.gov Apply site at <http://www.Grants.gov>. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the GAANN Program at <http://www.Grants.gov>. You must search

for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.200, not 84.200A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at <http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf>.

- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see http://www.grants.gov/applicants/get_registered.jsp). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see <http://>

www.grants.gov/section910/Grants.govRegistrationBrochure.pdf).

You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition, you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, the GAANN Budget Spreadsheet(s) Form, and the GAANN Statutory Assurances and all certifications.

- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

- Your electronic application must comply with any page-limit requirements described in this notice.

- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award Number (an ED-specified identifying number unique to your application).

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1-800-518-4726. You must

obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time; or, if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
 - You do not have the capacity to upload large documents to the Grants.gov system; and
 - No later than two weeks before the application deadline date (14 calendar days; or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.
- If you mail your written statement to the Department, it must be postmarked

no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail, or fax your statement to: Gary Thomas, U.S. Department of Education, 1990 K Street, NW., room 6016, Washington, DC 20006-8524. Fax (202) 502-7859.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: 84.200A), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following

address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: 84.200A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

V. Application Review Information

1. **Selection Criteria:** The selection criteria for this program are in 34 CFR 648.31.

2. **Review and Selection Process:** Additional factors we consider in selecting an application for an award are in 34 CFR 648.32.

VI. Award Administration Information

1. **Award Notices:** If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we will notify you.

2. **Administrative and National Policy Requirements:** We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. **Reporting:** At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial

expenditure information as directed by the Secretary under 34 CFR 75.118 and 34 CFR 648.66. Grantees will be required to submit a supplement to the Final Performance Report two years after the expiration of their GAANN grant. The purpose of the supplement to the Final Performance Report is to identify and report the educational outcome of each GAANN Fellow.

4. **Performance Measures:** Under the Government Performance and Results Act of 1993 (GPRA), the following measures will be used by the Department in assessing the performance of the GAANN Program:

(1) The percentage of GAANN Fellows completing the terminal degree in the designated areas of national need;

(2) The percentage of GAANN Fellows from traditionally underrepresented groups enrolled in a terminal degree program in the designated areas of national need; and

(3) The median time to completion of Master's and Doctorate degrees for GAANN students.

If funded, you will be asked to collect and report data in your project's annual performance report (EDGAR, 34 CFR 75.590) on these measures and on steps taken toward improving performance on these outcomes. Consequently, applicants are advised to include these outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects. Their measurement should be a part of the project evaluation plan, along with measures of your progress on the goals and objectives specific to your project.

All grantees will be expected to submit an annual performance report documenting their success in addressing these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Gary Thomas, U.S. Department of Education, Graduate Assistance in Areas of National Need Program, 1990 K Street, NW., room 6016, Washington, DC 20006-8524. Telephone: (202) 502-7767, or by e-mail: gary.thomas@ed.gov.

If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice.

Electronic Access to This Document: You can view this document, as well as

all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: February 10, 2009.

Daniel T. Madzlan,

Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. E9-3163 Filed 2-12-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

2009 Department of Energy Regional Nuclear Suppliers Outreach Event

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: The Department of Energy (DOE) Office of Environmental Management (EM), and the National Nuclear Security Administration (NNSA), will co-sponsor a Regional Nuclear Suppliers Outreach Event for suppliers interested in providing service and products in the nuclear sector.

DATES: March 17-18, 2009, 8 a.m.-5 p.m.

ADDRESSES: Augusta Marriott Hotel & Suites, Two Tenth Street, Augusta, Georgia 30901.

FOR FURTHER INFORMATION CONTACT: Jennifer Shafer, Event Planner, Performance Results Corporation, 20201 Century Boulevard, Suite 285, Germantown, Maryland 20874. Phone (301) 540-7100, Fax (301) 540-7550 or e-mail: jshafer@prc8a.com.

SUPPLEMENTARY INFORMATION:

Purpose of the meeting: This Regional Nuclear Suppliers Outreach Event is an excellent opportunity for companies interested in working in the DOE nuclear sector to gain insights into the current and future markets for products and services at the Portsmouth/Paducah Project Office, Oak Ridge Office, and Savannah River Sites, and requirements to enter or to continue to work on

nuclear projects in the DOE-complex. In addition, participants will have the opportunity to interact directly with senior executives, project managers, and procurement personnel working for DOE and NNSA and its prime contractors; and, gain insight into Nuclear Quality Assurance program requirements applicable to both the DOE and commercial nuclear industry sectors.

The purpose of this forum is two fold. First, it will help ensure that all EM and NNSA sites have an adequate number of qualified nuclear and non-nuclear suppliers for future projects and programs. Second, it will provide information for suppliers regarding the needs of DOE projects and programs for their products and services in the years ahead.

Agenda on March 17, 2009

8 a.m. Welcome and Logistics

8:15 a.m. Keynote Addresses

- TBD.
- Perspectives on NNSA Nuclear Project Needs.
- Perspectives on DOE Energy Park Initiative, Property for Community Reuse Organization.
- Perspectives on U.S. Business Competitiveness in Nuclear Energy.

10 a.m. Break

10:30 a.m. Market Outlooks for Nuclear Suppliers

- Commercial Nuclear Industry Outlook: New Nuclear Power Plants Applications for the Eastern U.S.
- DOE/EM Outlook: Regional Major Construction and Operation Projects.
- DOE/NNSA Outlook: Regional Major Construction and Operation Projects.

12 p.m. Lunch

1:30 p.m. NQA-1 Based Procurement Challenges and Major Issues

- Perspectives on EM Nuclear Project Needs.
- Panel Session #1: Nuclear Services (Design, Engineering, Construction).
- Panel Session #2: Nuclear Equipment (Pumps, Valves, Tanks, Pipes, Etc.).

5:30 p.m. Reception

Agenda on March 18, 2009

8 a.m. NQA-1 Based Procurement Challenges and Major Issues

- Panel Session #3: Savannah River Procurement Process and Liability and Indemnification Issues.

9 a.m. NQA Requirements and Impact on Suppliers

- What Is a Quality Assurance Program and How Does a Company Establish One?

9:30 a.m. DOE Site and Industry Procurement Interactions

- EM/NNSA Site Tables: Federal and Contractor procurement representatives from Savannah River, Oak Ridge, and Portsmouth and Paducah will be available to discuss specific needs and issues.
- NQA-1 Table: ASME representative will be available to discuss Quality Assurance Program requirements and program implementation.

12 p.m. Lunch

1:30 p.m. 4-Hour Training Session for Nuclear and Non-Nuclear Suppliers

- What Is the NQA-1 Process?

1:30 p.m. SRS Tours (Salt Waste Processing Facility, MOX, Defense Waste Processing Facility)

Registration Information: There is no event fee. Participants may register at <http://www.prc8a.com/doernsoe>, or by contacting Jennifer Shafer at the address or telephone number listed above.

Issued at Washington, DC, on February 9, 2009.

Dae Y. Chung,

Deputy Assistant Secretary for Safety Management and Operations, Environmental Management.

[FR Doc. E9-3134 Filed 2-12-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Department of Energy, Office of Science.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, March 2, 2009, 9 a.m. to 5 p.m.

ADDRESSES: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy, SC-26/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585-1290, Telephone: 301-903-0536.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Monday, March 2, 2009

- Perspectives from Department of Energy and National Science Foundation

- Presentation of the Interim Report from the Isotope Subcommittee

- Discussion of the Report

- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May, 301-903-0536 or Brenda.May@science.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the U.S. Department of Energy's *Office of Nuclear Physics* Web site for viewing.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9-3132 Filed 2-12-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Environmental Management Site-Specific Advisory Board, Portsmouth**

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the *Federal Register*.

DATES: Thursday, March 5, 2009; 6 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: David Kozlowski, Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897-2759, David.Kozlowski@lex.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations

to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda.

- Approval of February Meeting Minutes.

- Deputy Designated Federal Officer's Comments.

- Federal Coordinator's Comments.

- Liaisons' Comments.

- Presentations.

- Administrative Issues—Actions:

- Committee Updates.

- Motions.

- Public Comments.

- Final Comments.

- Adjourn.

Breaks taken as appropriate.

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact David Kozlowski at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Kozlowski at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling David Kozlowski at the address and phone number listed above. Minutes will also be available at the following Web site: <http://www.ports-ssab.org/publicmeetings.html>.

Issued at Washington, DC, on February 9, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9-3133 Filed 2-12-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Environmental Management Site-Specific Advisory Board, Paducah**

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the *Federal Register*.

DATES: Thursday, March 12, 2009, 6 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS-103, Paducah, Kentucky 42001, (270) 441-6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda

- Deputy Designated Federal Officer's Comments

- Federal Coordinator's Comments

- Liaisons' Comments

- Presentations

- Public Comments

- Administrative Issues

- Motions

- Final Comments

- Adjourn

Breaks Taken As Appropriate.

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Reinhard Knerr at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the

agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Reinhard Kner at the address and phone number listed above. Minutes will also be available at the following Web site: <http://www.pgdpca.org/minutes.htm>.

Issued at Washington, DC, on February 10, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9-3136 Filed 2-12-09; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2008-0896; FRL-8401-9]

Agency Information Collection Activities; Proposed Collection; Comment Request; Notification of Substantial Risk of Injury to Health and the Environment under TSCA Section 8(e); EPA ICR No. 0794.12, OMB Control No. 2070-0046

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: "Notification of Substantial Risk of Injury to Health and the Environment under TSCA Section 8(e)" and identified by EPA ICR No. 0794.12 and OMB Control No. 2070-0046, is scheduled to expire on October 31, 2009. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

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

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2008-0896, by one of the following methods:

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

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental

Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA-HQ-OPPT-2008-0896. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPPT-2008-0896. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

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

materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Amuel Kennedy, Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-7609; fax number: (202) 564-1626; e-mail address: kennedy.amuel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic,

mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this ICR are companies that manufacture, process, import, or distribute in commerce a chemical substance or mixture and that obtain information that reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment.

Title: Notification of Substantial Risk of Injury to Health and the Environment under TSCA Section 8(e).

ICR numbers: EPA ICR No. 0794.12, OMB Control No. 2070-0046.

ICR status: This ICR is currently scheduled to expire on October 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 Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40

CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 8(e) of TSCA requires that any person who manufactures, imports, processes, or distributes in commerce a chemical substance or mixture and obtains information that reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment must immediately inform EPA of such information. This information collection refers to that reporting requirement. EPA routinely disseminates TSCA section 8(e) data it receives to other Federal agencies to provide information about newly discovered chemical hazards and risks.

Responses to the collection of information are mandatory (see 15 U.S.C. 2607(e)). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 5 and 51 hours per response, depending upon the nature of the response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 390.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.3.

Estimated total annual burden hours: 30,515 hours.

Estimated total annual costs: \$2,057,588. This includes an estimated burden cost of \$2,057,588 and an estimated cost of \$0 for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates from the Last Approval?

There is an increase of 12,380 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's current estimates as to the number of TSCA section 8(e) submissions anticipated in the next three years compared with earlier years. The change is an adjustment.

V. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: February 4, 2009.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E9-3054 Filed 2-12-09; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8590-5]

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 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20070046, ERP No. D-BLM-J65476-CO, Little Snake Resource Management Plan, Implementation, Moffat, Routt and Rio Blanco Counties, Craig, CO

Summary: EPA expressed environmental concerns about the potential for visibility impacts to the Mt. Zirkel Wilderness and Black Canyon Class I areas and potential adverse impacts to water quality and the sagebrush ecosystem. The Final EIS should include measures to address potential ozone impacts, avoid visibility impairment, and the use of phased development to mitigate impacts to areas with high wildlife and scenic value. Rating EC2.

EIS No. 20080413, ERP No. D-FHW-K40269-CA, Mid County Parkway Project, Construct a New Parkway between Interstate 15 (I-15) in the West and State Route 79 (SR-79) in the East, Funding and US Army COE Section 404 Permit, Riverside County, CA

Summary: EPA expressed environmental concerns about impacts to environmental justice communities and the lack of sufficient mobile source air toxics analysis to inform decisions regarding alternatives, design, and mitigation. Rating EC2.

EIS No. 20080441, ERP No. D-FHW-L40236-OR, Sellwood Bridge Project, Rehabilitate or Replace the Bridge Crosses the Willamette River on Southeast Tacoma Street and Oregon State Highway 43, Funding, Multnomah County, OR

Summary: EPA has no objections to the proposed project. Rating LO.

EIS No. 20080448, ERP No. D-NPS-K61169-AZ, Fire Management Plan, Management of Wildland and Prescribed Fire, Protection of Human Life and Property Restoration and Maintenance of Fire Dependent Ecosystems, and Reduction of Hazardous Fuels, Grand Canyon National Park, Coconino County, AZ

Summary: EPA does not object to the Preferred Alternative. Rating LO.

EIS No. 20080486, ERP No. D-AFS-L65561-AK, Logjam Timber Sale Project, Proposes Timber Harvesting from 4 Land Use Designations, Tongass Land and Resource Management Plan, Thorne Bay Ranger District, Tongass National Forest, Prince Wales Island, AK

Summary: EPA expressed environmental concerns about the potential for adverse impacts to aquatic and wildlife resources from road construction, ground-based harvest methods, stream crossings, and cumulative effects from past timber harvest activities. EPA recommends the selection of an alternative that minimizes these impacts. Rating EC1.

EIS No. 20080497, ERP No. D-STA-F03012-00, Alberta Clipper Pipeline Project, Application for a Presidential Permit to Construction, Operation and Maintenance of Facilities in ND, MN and WI

Summary: EPA expressed environmental concerns about impacts to waters and wetlands, and recommended that the final EIS consider additional alternatives and identify additional mitigation measures, including voluntary upland forest mitigation and strategies to reduce diesel emissions during construction. Rating EC2.

EIS No. 20080401, ERP No. DS-FHW-L40186-OR, Sunrise Project, Proposes to Build a New East-West Oriented, Limited-Access Highway between I-205 to Rock Creek Junction, Funding and US Army COE Section 404 Permit, Clackamas County, Oregon

Summary: EPA expressed environmental concerns about the impacts to locally important habitats and open space, as well as wetlands. Furthermore, EPA has concerns regarding environmental justice, stimulated travel and growth effects, air toxics and greenhouse gas emissions, ground water resources, and water quality and quantity impacts that could affect threatened fish species. Rating EC2.

EIS No. 20080475, ERP No. DS-FHW-K50015-CA, Schuyler Heim Bridge Replacement and SR-47 Expressway Improvement Project, New Information related to Health Risk Associated with Air Toxics, Funding, U.S. Coast Guard Bridge Permit, US Army COE Section 10 and 404 Permits, Ports of Long Beach and Los Angeles, Los Angeles County, CA

Summary: EPA expressed environmental concerns about the proposed projects air quality impacts. Rating EC2.

Final EISs

EIS No. 20080505, ERP No. F-FHW-F40415-IN, U.S. 31 Improvement Project (I-465 to IN-38), between I-465 North Leg and IN-38, NPDES Permit and US Army Section 10 and 404 Permits, Hamilton County, IN

Summary: EPA does not object to the proposed project.

EIS No. 20080507, ERP No. F-FHW-K40265-CA, CA-76 Corridor Project, Transportation Improvements from Melrose Drive to South Mission Road, San Diego County, CA

Summary: EPA expressed environmental concerns about impacts from mobile source air toxics.

EIS No. 20080510, ERP No. F-STB-F53019-00, Elgin, Joliet & Eastern Railroad (Finance Docket No. 35087) Proposed Acquisition by Canadian National (CN) Railway and Grand Trunk Corporation to connect all Five of CN's Rail lines, Chicago, Illinois and Gary, Indiana

Summary: EPA expressed environmental concerns about the noise impacts, impacts to wetlands, and insufficient assessments of natural resources, long-term rail operations, and indirect and cumulative impacts.

EIS No. 20080514, ERP No. F-AFS-L65551-ID, Corralled Bear Project, Management of Vegetation, Hazardous Fuels, and Access, Plus Watershed Improvements, Palouse Ranger District, Clearwater National Forest, Latah County, ID

Summary: EPA does not object to the selected action.

EIS No. 20080515, ERP No. F-BLM-J65507-WY, West Antelope Coal Lease Application (Federal Coal Lease Application WYW163340), Implementation, Converse and Campbell Counties, WY

Summary: EPA expressed environmental concerns about air quality impacts.

Dated: February 10, 2009.

Robert W. Hargrove,
Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9-3139 Filed 2-12-09; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8590-4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepal>.

Weekly Receipt of Environmental Impact Statements Filed 02/02/2009 Through 02/06/2009 Pursuant to 40 CFR 1506.9.

EIS No. 20090033, Final Supplement, COE, AR, Fourche Bayou Basin

Project, 1,750 Acre Bottomland Acquisition with Nature Appreciation Facilities, Development, Funding, City of Little Rock, Pulaski County, AR, *Wait Period Ends:* 03/16/2009, *Contact:* Jim Ellis 501-324-5629.

EIS No. 20090034, Draft EIS, COE, MS, PROGRAMMATIC EIS—Mississippi Coastal Improvements Program (MsCIP), Comprehensive Plan, Implementation, Hancock, Harrison and Jackson Counties, MS, Comment Period Ends: 03/30/2009, *Contact:* Jennifer Jacobson 251-690-2724.

Amended Notices

EIS No. 20080177, Final EIS, USN, HI, Hawaii Range Complex (HRC) Project, Preferred Alternative is 3, To Support and Maintain Navy Pacific Fleet Training, and Research, Development, Test, and Evaluation (RDT&E) Operations, Kauai, Honolulu, Maui and Hawaii Counties, HI, Contact: Jolie Harrison, at 301-713-2289. The U.S. Department of Commerce's National Oceanic and Atmospheric Administration (DOC/NOA) has adopted the U.S. Navy's FEIS #20080177 filed on 05/02/2008. DOC/NOA was a Cooperating Agency for the above project. Recirculation of the FEIS is not necessary under 40 CFR 1506.3(c).

EIS No. 20080528, Draft EIS, USN, 00, Northwest Training Range Complex (NWTRC), To Support and Conduct Current, Emerging, and Future Training and Research, Development, Test and Evaluation (RDT&E) Activities, WA, OR and CA, Comment Period Ends: 02/18/2009, *Contact:* Kimberly Kler 360-396-0927. Revision to FR Notice Published 12/29/2008: Extending the Comment from 2/11/2009 to 02/18/2009.

EIS No. 20080533, Draft EIS, AFS, CA, Plumas National Forest Public Motorized Travel Management, Implementation, Plumas National Forest, Plumas County, CA, Comment Period Ends: 03/13/2009, *Contact:* Jane Beaulieu 530-283-7742. Revision to FR Notice Published 12/29/2008: Extending Comment Period from 02/11/2009 to 03/13/2009.

EIS No. 20080542, Draft EIS, AFS, NV, Martin Basin Rangeland Project, Reauthorizing Grazing on Eight Existing Cattle and Horse Allotments: Bradshaw, Buffalo, Buttermilk, Granite Peak, Indian, Martin Basin, Rebel Creek, and West Side Flat Creek, Santa Rosa Ranger District, Humboldt-Toiyabe National Forest, NV, Comment Period Ends: 04/17/2009, *Contact:* Vern Keller 775-355-5356. Revision to FR Notice Published 01/02/2009: Extending Comment

Period from 02/17/2009 to 04/17/2009.

Dated: February 10, 2009.

Robert W. Hargrove,
Director, NEPA Compliance Division, Office of Federal Activities.
[FR Doc. E9-3137 Filed 2-12-09; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

February 6, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 16, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at Nicholas_A.Fraser@omb.eop.gov or via fax at (202) 395-5167 and to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC or via

Internet at Cathy.Williams@fcc.gov or PRA@fcc.gov.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR."

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0161.

Title: Section 73.61, AM Directional Antenna Field Strength Measurements.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 2,268.

Estimated Time per Response: 4-50 hours.

Frequency of Response:

Recordkeeping requirement.

Total Annual Burden: 36,020 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 73.61 requires that each AM station using directional antennas to make field strength measurement as often as necessary to ensure proper directional antenna system operation. Stations not having approved sampling systems make field strength measurements every three months. Stations with approved sampling systems must take field strength measurements as often as necessary. Also, all AM station using directional signals must take partial proofs of performance as often as

necessary. The FCC staff used the data in field inspections/investigations. AM licensees with directional antennas use the data to ensure that adequate interference protection is maintained between stations and to ensure proper operation of antennas.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. E9-3181 Filed 2-12-09; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal (3064-0097); Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collection of information titled: "Interagency Notice of Change in Director or Executive Officer."

DATES: Comments must be submitted on or before April 14, 2009.

ADDRESSES: Interested parties are invited to submit written comments by any of the following methods. All comments should refer to the name and number of the collection:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.

- E-mail: comments@fdic.gov.

Include the name and number of the collection in the subject line of the message.

- Mail: Gary A. Kuiper (202.898.3877), Counsel, Federal Deposit Insurance Corporation, F-1072, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB Desk Officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Interagency Notice of Change in Director or Executive Officer.

OMB Number: 3064-0097.

Frequency of Response: On occasion.

Affected Public: State chartered banks that are not members of the Federal Reserve System.

Estimated Number of Respondents: 200.

Estimated Time per Response: 2 hours.

Total Annual Burden: 400 hours.

General Description of Collection:

Certain insured state nonmember banks must notify the FDIC of the addition of a director or the employment of a senior executive officer.

Request for Comment

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 9th day of February 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9-3098 Filed 2-12-09; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 2, 2009.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. *The Yoakum Family, LP, Tazewell, Tennessee;* to acquire 40.87 percent of the outstanding voting shares of common stock of Claiborne Holding Company, Inc., and its subsidiary, First Century Bank, both of Tazewell, Tennessee.

Board of Governors of the Federal Reserve System, February 10, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-3129 Filed 2-12-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be

available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 11, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offerbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *FSB Investments, LLC, Oklahoma City, Oklahoma*; to become a bank holding company by acquiring 53.89 percent of the voting shares of Midwest Community Financial Corporation, Midwest City, Oklahoma, parent of The First State Bank, Canute, Oklahoma.

In connection with this application, Applicant also has applied to acquire American Resource Mortgage, Inc., Midwest City, Oklahoma, and thereby engage in the origination of mortgage loans, pursuant to 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-3130 Filed 2-12-09; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS-10116]

Agency Information Collection Activities: Proposed Collection; 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) 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 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.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Program; Conditions for Payment of Power Mobility Devices, including Power Wheelchairs and Power-Operated Vehicles; *Use:* CMS is renewing our request for approval for the collection requirements associated with the final rule, CMS-3017-F (71 FR 17021), which was published on April 5, 2006 and became effective on June 5, 2006. The regulation CMS-3017-F finalized provisions set forth in the interim final regulation (70 FR 50940) published on August 26, 2005. This final rule conforms our regulations to section 302(a)(2)(E)(iv) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This rule defines the term power mobility devices (PMDs) as power wheelchairs and power operated vehicles (POVs or scooters). It sets forth revised conditions for Medicare payment of PMDs and defines who may prescribe PMDs. This rule also requires a face-to-face examination of the beneficiary by the physician or treating practitioner, a written prescription, and receipt of pertinent parts of the medical record by the supplier within 45 days after the face-to-face examination that the durable medical equipment (DME) suppliers maintain in their records and make available to CMS and its agents upon request. Finally, this rule discusses CMS' policy on documentation that may be requested by CMS and its agents to support a Medicare claim for payment.

Since the implementation of regulation CMS-3017-F, there have

been no new requirements that have necessitated changes to any burden. The change in total burden is attributable to an estimate of claims for PMD that were higher than the estimate of claims calculated for this PRA package. For example, last time CMS calculated burden estimates associated with this regulation to be 243,000 claims. For this package, CMS estimates that 240,325 claims will be submitted for payment in 2009. This translates into 48,065 hours instead of 48,600 hours, resulting in a difference of 535 hours less burden than originally estimated. *Form Number:* CMS-10116 (OMB# 0938-0971); *Frequency:* Occasionally; *Affected Public:* Private Sector; *Number of Respondents:* 89,411; *Total Annual Responses:* 240,325; *Total Annual Hours:* 48,065.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site 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.

In commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by April 14, 2009:

1. *Electronically.* You may submit your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: February 6, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9-3152 Filed 2-12-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-285, CMS-10170, CMS-R-0074, CMS-R-107, CMS-2786U, CMS-416 and CMS-10265]

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: Extension of a currently approved collection; **Title of Information Collection:** Request For Retirement Benefit Information; **Use:** Section 1818 of the Social Security Act provides that former State and local government employees who are age 65 or older, that have been entitled to Premium Part A for at least 7 years, and did not have the premium paid for by a State or a political subdivision of a State, may have the Part A premium reduced to zero. This collection will assist in determining whether individuals currently paying a monthly premium for Medicare Part A coverage are eligible to have their premium reduced to zero. **Form Number:** CMS-R-285 (OMB# 0938-0769); **Frequency:** Monthly; **Affected Public:** State, Local or Tribal Governments; **Number of Respondents:** 1,500; **Total Annual Responses:** 1,500; **Total Annual Hours:** 375. (For policy questions regarding this collection contact: Denise Cox at 410-786-3195. For all other issues call 410-786-1326.)

2. Type of Information Collection Request: Revision of a currently

approved collection; **Title of Information Collection:** Retiree Drug Subsidy (RDS) Payment Request and Instructions; **Use:** Under section 1860D-22 of the Social Security Act, plan sponsors (e.g., employers, unions) who offer prescription drug coverage meeting specified criteria to their qualified covered retirees are eligible to receive a 28% tax-free subsidy for allowable drug costs. Plan sponsors must submit required prescription drug cost data and other information in order to receive the subsidy. **Form Number:** CMS-10170 (OMB# 0938-0977); **Frequency:** Yearly; **Affected Public:** Business or other for-profits, not-for-profit institutions, not-for-profit institutions and State, Local or Tribal Governments; **Number of Respondents:** 4,500; **Total Annual Responses:** 4,500; **Total Annual Hours:** 679,500. (For policy questions regarding this collection contact: David Mlawsky at 410-786-6851. For all other issues call 410-786-1326.)

3. Type of Information Collection Request: Extension of a currently approved collection; **Title of Information Collection:** Income and Eligibility Verification System; **Use:** This collection is necessary to verify income and eligibility requirements for Medicaid beneficiaries, as required by Section 1137 of the Social Security Act. **Form Number:** CMS-R-74 (OMB# 0938-0467); **Frequency:** Monthly; **Affected Public:** State, Local or Tribal Governments; **Number of Respondents:** 54; **Total Annual Responses:** 54; **Total Annual Hours:** 124,054. (For policy questions regarding this collection contact: Mel Schmerler at 410-786-3414. For all other issues call 410-786-1326.)

4. Type of Information Collection Request: Extension of a currently approved collection; **Title of Information Collection:** Medicaid-Determining Third Party Liability (TPL) State Plan Preprint and Supporting Regulations in 42 CFR 433.138; **Use:** The information collected from Medicaid applicants and beneficiaries as well as from State and local agencies is necessary to determine the legal liability of third parties to pay for medical services in lieu of Medicaid payment. **Form Number:** CMS-R-107 (OMB# 0938-0502); **Frequency:** On occasion; **Affected Public:** Individuals or households and State, Local or Tribal Government; **Number of Respondents:** 2,900,000; **Total Annual Responses:** 2,900,000; **Total Annual Hours:** 510,968. (For policy questions regarding this collection contact Gwendolyn Talvert at 410-786-5928. For all other issues call 410-786-1326.)

5. Type of Information Collection Request: Revision of a currently approved collection; **Title of Information Collection:** Fire Safety Survey Reports; **Use:** The Life Safety Code (LSC) is a compilation of fire safety requirements for new and existing buildings and is updated and published every 3 years by the National Fire Protection Association (NFPA), a private, non-profit organization dedicated to reducing loss of life due to fire. The Medicare regulations have historically incorporated by reference these requirements along with Secretarial waiver authority. The statutory basis for incorporating NFPA's LSC for our providers is under the Secretary's general rulemaking authority at Sections 1102 and 1871 of the Social Security Act. These forms are used by the State Agencies to record data collected to determine compliance with standards specified in 416.44(b) for ambulatory surgical centers (ASCs), and 494.60(e) for End-Stage Renal Disease (ESRD) facilities. The Medicare Health Insurance Program is authorized by Title XVIII of the Social Security Act. The CMS-2786U form is being revised to include ESRD information. **Form Number:** 2786U (OMB# 0938-0242); **Frequency:** Weekly; **Affected Public:** Individuals or households and State, Local or Tribal Government; **Number of Respondents:** 54; **Total Annual Responses:** 2,442; **Total Annual Hours:** 4,884. (For policy questions regarding this collection contact JoAnn Perry at 410-786-3336. For all other issues call 410-786-1326.)

6. Type of Information Collection Request: Revision of a currently approved collection; **Title of Information Collection:** Annual Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Report; **Use:** States are required to submit an annual report on the provision of EPSDT services pursuant to section 1902(a)(43)(D) of the Social Security Act. These reports provide CMS with data necessary to assess the effectiveness of State EPSDT programs, to determine a State's results in achieving its participation goal and to respond to inquiries. This collection is being submitted as a revision based on minor changes made to the form and instructions. CMS has added three additional lines of data to the form (lines 12d, 12e and 12f). This information is currently being collected; however, CMS expanded the lines to obtain a better understanding for the utilization of dental services. CMS believes there will be no additional burden for the changes made to the form. The changes were necessary to

accommodate a need for more specific dental data and to preliminary notify States of a change in CPT codes. A clarification was also made to line 14 of the instructions. *Form Number:* CMS-416 (OMB# 0938-0354); *Frequency:* Yearly; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,568. (For policy questions regarding this collection contact Cindy Ruff at 410-786-5916. For all other issues call 410-786-1326.)

7. Type of Information Collection Request: New collection; **Title of Information Collection:** Mandatory Insurer Reporting Requirements of Section 111 of the Medicare, Medicaid and SCHIP Act of 2007 (MMSEA) (Pub. L. 110-173); **Use:** Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Pub. L. 110-173) amends the Medicare Secondary Payer (MSP) provisions of the Social Security Act (42 U.S.C. 1395y(b)) to provide for mandatory reporting by group health plan arrangements and by liability insurance (including self-insurance), no-fault insurance, and workers' compensation laws and plans. The law provides that, notwithstanding any other provision of law, the Secretary of Health and Human Services may implement this provision by program instruction or otherwise. The Secretary has elected not to implement the provision through rulemaking and will implement by publishing instructions on a publicly available Web site and submitting an information collection request to OMB for review and approval of the associated information collection requirements.

Effective January 1, 2009, as required by the MMSEA, an entity serving as an insurer or third party administrator for a group health plan and, in the case of a group health plan that is self-insured and self-administered, a plan administrator or fiduciary must: (1) Secure from the plan sponsor and plan participants such information as the Secretary may specify to identify situations where the group health plan is a primary plan to Medicare; and (2) report such information to the Secretary in the form and manner (including frequency) specified by the Secretary.

Effective July 1, 2009, as required by the MMSEA, "applicable plans," must: (1) Determine whether a claimant is entitled to Medicare benefits; and, if so, (2) report the identity of such claimant and provide such other information as the Secretary may require to properly coordinate Medicare benefits with respect to such insurance arrangements in the form and manner (including

frequency) as the Secretary may specify after the claim is resolved through a settlement, judgment, award or other payment (regardless of whether or not there is a determination or admission of liability). Applicable plan refers to the following laws, plans or other arrangements, including the fiduciary or administrator for such law, plan or arrangement: (1) Liability insurance (including self-insurance); (2) No-fault insurance; and (3) Workers' compensation laws or plans.

As indicated, the Secretary has elected to implement this provision by publishing instructions at a Web site established for such purpose. The Web site is (<http://www.cms.hhs.gov/MandatoryInsRep/>). CMS shall use this Web site to publish preliminary guidance as well as the final instructions. The Web site also advises interested parties how to comment on the preliminary guidance. *Form Number:* CMS-10265 (OMB# 0938-New); *Frequency:* Yearly; *Affected Public:* Business or other for-profits, not-for-profit institutions and State, Local or Tribal Governments; *Number of Respondents:* 290,404; *Total Annual Responses:* 6,920,504; *Total Annual Hours:* 2,120,478. (For policy questions regarding this collection contact John Albert at 410-786-7457. 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 **March 16, 2009:** OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395-6974.

Dated: February 6, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9-3156 Filed 2-12-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3210-N2]

Medicare Program; Medicare Evidence Development & Coverage Advisory Committee; Cancellation of the March 18, 2009 Meeting and Announcement of the June 17, 2009 Meeting

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the cancellation of the March 18, 2009 public meeting of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC) ("Committee") that was published in the January 16, 2009 *Federal Register* (74 FR 3051 through 3053). This notice also announces a public meeting on Wednesday, June 17, 2009. The Committee generally provides advice and recommendations concerning the adequacy of scientific evidence needed to determine whether certain medical items and services can be covered under the Medicare statute. This meeting will focus on the use of Bayesian statistics to interpret evidence in making coverage decisions. The meeting will introduce Bayesian concepts, contrast Bayesian approaches with frequentist approaches, and provide some examples of using Bayesian techniques for meta-analyses. This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

DATES: *Meeting date:* The public meeting will be held on Wednesday, June 17, 2009 from 7:30 a.m. until 4:30 p.m., eastern daylight time (e.d.t.).

Deadline for Submission of Written Comments: Written comments must be received at the address specified in the **ADDRESSES** section of this notice by 5 p.m., e.d.t. on May 18, 2009. Once submitted, all comments are final.

Deadlines for Speaker Registration and Presentation Materials: The deadline to register to be a speaker and to submit Powerpoint presentation materials and writings that will be used in support of an oral presentation is Monday, May 18, 2009, at 5 p.m., e.d.t. Speakers may register by phone or via e-mail by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Presentation materials must be received at the address specified in the **ADDRESSES** section of this notice.

Deadline for All Other Attendees
Registration: Individuals may register by phone or via e-mail by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m., e.d.t. on Wednesday, June 10, 2009.

Deadline for Submitting a Request for Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to contact the Executive Secretary as specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than 5 p.m., e.d.t. on Friday, June 5, 2009.

ADDRESSES: Meeting Location: The meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services, 7500 Security Blvd., Baltimore, MD 21244.

Submission of Presentations and Comments: Presentation materials and written comments that will be presented at the meeting must be submitted via e-mail to

MedCACpresentations@cms.hhs.gov or by regular mail to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Maria Ellis, Executive Secretary for MEDCAC, Centers for Medicare & Medicaid Services, Office of Clinical Standards and Quality, Coverage and Analysis Group, C1-09-06, 7500 Security Boulevard, Baltimore, MD 21244 or contact Ms. Ellis by phone (410-786-0309) or via e-mail at Maria.Ellis@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

MEDCAC, formerly known as the Medicare Coverage Advisory Committee (MCAC), provides advice and recommendations to CMS regarding clinical issues. (For more information on MCAC, see the December 14, 1998 *Federal Register* (63 FR 68780).) This notice announces a public meeting of the Committee. During this meeting, the Committee will discuss the use of Bayesian statistics to interpret evidence in making coverage decisions. The meeting will introduce Bayesian concepts, contrast Bayesian approaches with frequentist approaches, and provide some examples of using Bayesian techniques for meta-analyses. Background information about this topic, including panel materials, is available at <http://www.cms.hhs.gov/coverage>. We encourage the

participation of appropriate organizations with expertise in Bayesian statistics, meta-analyses, and clinical trial design and analyses.

II. Meeting Format

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. The Committee may limit the number and duration of oral presentations to the time available. Comments should focus on issues specific to the list of topics that we have proposed to the Committee. The list of research topics to be discussed at the meeting will be available prior to the meeting on the CMS Web site at http://www.cms.hhs.gov/mcd/index_list.asp?list_type=mcac. We require that speakers publicly declare at the meeting any financial involvement with manufacturers (or their competitors) of any items or services being discussed.

The Committee will deliberate openly on the topics under consideration. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15-minute unscheduled open public session for any attendee to address issues specific to the topics under consideration. At the conclusion of the day, the members will vote and the Committee will make its recommendation(s) to CMS.

III. Registration Instructions

CMS' Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. You may register by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the deadline listed in the **DATES** section of this notice. Please provide your full name (as it appears on your state-issued driver's license), address, organization, telephone, fax number(s), and e-mail address. You will receive a registration confirmation with instructions for your arrival at the CMS complex or you will be notified the seating capacity has been reached.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a Federal Government building; therefore, Federal security measures are applicable. We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to

clear security. Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Inspection, via metal detector or other applicable means of all persons brought entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, 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 presentation or to support a presentation.

Note: 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 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

Authority: 5 U.S.C. App. 2, section 10(a). (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 27, 2009.

Barry M. Straube,
 Chief Medical Officer and Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. E9-3154 Filed 2-12-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State High Performance Bonus System (HPBS) Transmission File Layouts for HPBS Work Measures.
OMB No.: 0970-0230.

Description: There is no longer a High Performance Bonus associated with this information collection. The Deficit Reduction Act of 2005 (Pub. L. 109-171) eliminated the funding for the High Performance Bonus (HPB), but we are

still requesting that States continue to submit data necessary to calculate the work measures previously reported under the HPB.

Specifically, The TANF program was reauthorized under the Deficit Reduction Act of 2005. The statute eliminated the funding for the HPB under section 403(a)(4). Nevertheless the Department is required under section 413(d) to annually rank State performance in moving TANF recipients into private sector employment. We are, therefore, requesting that States

continue to transmit monthly files of adult TANF recipients necessary to calculate the work measures performance data. To the extent States do not provide the requested information, we will extract the matching information from the TANF Data Report. This may result in calculation of the work performance measures based on sample data, which would provide us less precise information on States' performance.

The Transmission File Layouts form provides the format that States will

continue to use for the quarterly electronic transmission of monthly data on TANF adult recipients. States that have separate TANF-MOE files on these programs are also requested to transmit similar files. We are not requesting any changes to the Transmission File Layouts form.

Respondents: Respondents may include any of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State High Performance Bonus System (HPBS) Transmission File Layouts for HPBS Work Measures	42	2	12	1,008

Estimated Total Annual Burden Hours: 1,008.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: infocollection@acf.hhs.gov.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202-395-6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: February 10, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9-3099 Filed 2-12-09; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0043]

Agency Information Collection Activities; Proposed Collection; Comment Request; Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's requirements for food irradiation processors. This notice also notifies the public of and solicits comments on FDA's proposal to transfer the collection of information and associated burden hours from the Office of Management and Budget (OMB) control number 0910-0549 to the subject collection of information (OMB control number 0910-0186).

DATES: Submit written or electronic comments on the collection of information by April 14, 2009.

ADDRESSES: Submit electronic comments on the collection of information to <http://www.regulations.gov>. Submit written comments on the collection of information to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA-710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-796-3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether

the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Irradiation in the Production, Processing, and Handling of Food—21 CFR Part 179 (OMB Control Number 0910-0186)—Extension

Under sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(s) and 348), food irradiation is subject to regulation under the food additive premarket approval provisions of the act. The regulations providing for uses of irradiation in the production, processing, and handling of

food are found in part 179 (21 CFR part 179). To ensure safe use of a radiation source, § 179.21(b)(1) requires that the label of sources bear appropriate and accurate information identifying the source of radiation and the maximum (or minimum and maximum) energy of radiation emitted by x-ray tube sources. Section 179.21(b)(2) requires that the label or accompanying labeling bear adequate directions for installation and use and a statement supplied by FDA that indicates maximum dose of radiation allowed. Section 179.26(c) requires that the label or accompanying labeling bear a logo and a radiation disclosure statement. Section 179.25(e) requires that food processors who treat food with radiation make and retain, for 1 year past the expected shelf life of the products up to a maximum of 3 years, specified records relating to the irradiation process (e.g., the food treated, lot identification, scheduled process, etc.). The records required by § 179.25(e) are used by FDA inspectors to assess compliance with the regulation that establishes limits within which radiation may be safely used to treat food. The agency cannot ensure safe use

without a method to assess compliance with the dose limits, and there are no practicable methods for analyzing most foods to determine whether they have been treated with ionizing radiation and are within the limitations set forth in part 179. Records inspection is the only way to determine whether firms are complying with the regulations for treatment of foods with ionizing radiation.

In this request for extension of OMB approval, FDA proposes to include and consolidate into the subject collection of information (OMB control number 0910-0186) the collection of information and associated burden hours from OMB control number 0910-0549. This inclusion is reflected in the estimated burden reported in table 1 of this document, which has increased by the addition of one recordkeeper in the large processors line, increasing the number of estimated recordkeepers from two to three.

Description of Respondents:

Respondents are businesses engaged in the irradiation of food.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
179.25(e), large processors	3	300	900	1	900
179.25(e), small processors	4	30	120	1	120
Total					1,020

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimate of burden for the recordkeeping provisions of § 179.25(e) on the agency's experience regulating the safe use of radiation as a direct food additive. The number of firms who process food using irradiation is extremely limited. FDA estimates that there are three irradiation plants whose business is devoted primarily (i.e., approximately 100 percent) to irradiation of food and other agricultural products. Four other firms also irradiate small quantities of food. FDA estimates that this irradiation accounts for no more than 10 percent of the business for each of these firms. Therefore, the average estimated burden is based on: Three facilities devoting 100 percent of their business to food irradiation (3 x 300 hours = 900 hours for recordkeeping annually); four facilities devoting 10 percent of their business to food irradiation (4 x 30 hours = 120 hours for recordkeeping annually).

No burden has been estimated for the labeling requirements in §§ 179.21(b)(1) and (b)(2) and 179.26(c) because the information to be disclosed is information that has been supplied by FDA. Under 5 CFR 1320.3(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information.

Dated: February 6, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-3091 Filed 2-13-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2008-D-0559]

Draft Guidance for Industry on Process Validation: General Principles and Practices; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until March 16, 2009, the comment period for the draft guidance entitled "Process Validation: General Principles and Practices." FDA announced the availability of this draft guidance in the *Federal Register* of November 18, 2008 (73 FR 68431). The initial comment period closes on January 20, 2009. FDA

is taking this action in response to a request for an extension of the comment period, due to the holiday season, to allow interested persons sufficient time to review this draft guidance and submit comments.

DATES: Submit written or electronic comments by March 16, 2009.

ADDRESSES: Submit written comments 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:

Brian Hasselbalch, Center for Drug Evaluation and Research (HFD-320), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4364, Silver Spring, MD 20993-0002, 301-796-3279; or

Grace McNally, Center for Drug Evaluation and Research (HFD-320), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4374, Silver Spring, MD 20993-0002, 301-796-3286; or

Christopher Joneckis, Center for Biologics Evaluation and Research (HFM-1), Food and Drug Administration, 5515 Security Lane, rm. 7302, Rockville, MD 20852, 301-435-5681; or

Dennis Bensley, Center for Veterinary Medicine (HFV-140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8268.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is extending the comment period on a draft guidance for industry entitled "Process Validation: General Principles and Practices." This guidance outlines the general principles and approaches that FDA considers to be appropriate elements of process validation for the manufacture of human and animal drug and biological products, including active pharmaceutical ingredients (API or drug substance). This guidance incorporates principles and approaches that all manufacturers can use in validating a manufacturing process.

FDA issued the draft guidance on November 18, 2008. The initial comment period closes on January 20, 2009. In response to a request for an extension, due to the holiday season, to allow interested persons sufficient time to review this draft guidance and submit comments, FDA has decided to reopen the comment period until March 16, 2009.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at <http://www.fda.gov/cder/guidance/index.htm>, <http://www.fda.gov/cber/guidelines.htm>, <http://www.fda.gov/cvm/guidance/published.htm>, or <http://www.regulations.gov>.

Dated: February 6, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-3090 Filed 2-12-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0664]

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 19, 2009, from 8 a.m. to 5 p.m.

Location: Marriott Conference Centers, UMUC Inn and Conference Center by Marriott, 3501 University Blvd., East, Adelphi, MD. The hotel telephone number is 301-985-7385.

Contact Person: Elaine Ferguson, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane, (for

express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301-827-7001, FAX: 301-827-6776, e-mail: elaine.ferguson@fda.hhs.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 3014512533. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 22-406, rivaroxaban oral tablets (10 milligrams) Johnson & Johnson Pharmaceutical Research & Development, L.L.C., for the proposed indication for use in prophylaxis of deep vein thrombosis and pulmonary embolism in patients undergoing hip replacement surgery or knee replacement surgery.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at <http://www.fda.gov/ohrms/dockets/ac/acmenu.htm>, click on the year 2009 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 5, 2009. Oral presentations from the public will be scheduled between approximately 1 p.m. to 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 25, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine

the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 26, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Elaine Ferguson at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <http://www.fda.gov/oc/advisory/default.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 4, 2009.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E9-3089 Filed 2-12-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Availability of Final Policy Guidance

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Final Agency Guidance and Response to Public Comments.

SUMMARY: HRSA is publishing a final Agency Guidance ("Policy Information Notice" (PIN) 2009-02), to describe the policy and processes pertaining to requests from federally-funded health centers to change the scope of their Federal project. The PIN, "Specialty Services and Health Centers" Scope of Project," and the Agency's "Response to Public Comments" are available on the Internet at <http://bphc.hrsa.gov>.

DATES: The effective date of this final Agency guidance is December 18, 2008.

Background: The Health Resources and Services Administration administers the Health Center Program, as authorized by section 330 of the Public Health Service (PHS) Act as amended, (42 U.S.C. 254b). Health centers improve the health of the

Nation's underserved communities and vulnerable populations by assuring access to comprehensive, culturally competent, quality primary health care services. Health center grants support a variety of community-based and patient-directed public and private nonprofit organizations and continue to serve an increasing number of the Nation's underserved. Charges for health care services are set according to income: At the end of the 2007 calendar year, there were more than 1,000 federally-funded health centers with more than 7,000 primary health care delivery sites located in urban and rural underserved areas throughout the U.S. and its territories. In 2007, over 16 million medically underserved and uninsured patients received comprehensive, culturally competent, quality primary health care services through the federally-supported Health Center Program.

On August 10, 2007, HRSA made the draft PIN, "Specialty Services and Health Centers" Scope of Project," available for public comment on HRSA's Web site. HRSA also published a notice in the *Federal Register* of August 29, 2007, requesting comments on this draft PIN.

Sixty-five comments were received from 20 organizations and/or individuals. After review and careful consideration of all comments received, HRSA has amended the PIN to incorporate certain recommendations from the public. The final PIN reflects these changes.

In addition to making the final PIN available on HRSA's Web site, HRSA is also posting the Agency's "Response to Public Comments" at <http://bphc.hrsa.gov/policy/pin0902/pin0902comments.htm>. The purpose of that document is to summarize the major comments received and describe the Agency's response, including any corresponding changes made to the PIN. Where comments did not result in a revision to the PIN, explanations are provided. Any interested party that does not have access to HRSA's Web site can contact the HRSA point of contact to request that a hardcopy of the "Response to Public Comments" be mailed to their attention.

FOR FURTHER INFORMATION CONTACT: For questions regarding this notice, please contact the Office of Policy and Program Development, Bureau of Primary Health Care, HRSA, at 301-594-4300.

Dated: February 6, 2009.

Elizabeth M. Duke,
Administrator.

[FR Doc. E9-3087 Filed 2-12-09; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Availability of Final Policy Guidance

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final Guidance.

DATES: The effective date of this final Agency guidance is January 5, 2009.

SUMMARY: HRSA has issued Policy Information Notice (PIN) 2009-04, "Revision to PIN 2003-21: Federally Qualified Health Center (FQHC) Look-Alike Guidelines and Application," to announce a technical revision to PIN 2003-21: *FQHC Look-Alike Guidelines and Application*, issued on August 26, 2003. Both PINs are available on HRSA's Web site at <http://bphc.hrsa.gov/policy/#lookalikes>.

Background: HRSA has issued PIN 2009-04, "Revision to PIN 2003-21: FQHC Look-Alike Guidelines and Application," to announce a technical revision to PIN 2003-21: *FQHC Look-Alike Guidelines and Application*, issued on August 26, 2003. PIN 2003-21 conveys eligibility and compliance requirements of the FQHC Look-Alike Program and instructions for submitting an application for FQHC Look-Alike designation, recertification, and change in scope of project. PIN 2009-04 updates the data submission requirements in PIN 2003-21. Applicants and existing FQHC Look-Alikes should refer to both PINs when preparing applications. Both PINs are available on HRSA's Web site at <http://bphc.hrsa.gov/policy/#lookalikes>.

PIN 2009-04 reflects the Office of Management and Budget (OMB) approved extension of information collection (control number 0915-0142) to November 30, 2011. Furthermore, the race and ethnicity data is now collected as two separate data elements in Table 2, Part B, to meet OMB Standards for the Classification of Federal Data on Race and Ethnicity as well as Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (62 FR 36874-36946; 62 FR 58781-9; and OMB Bulletin #00-02). Please note that all information provided regarding race and/or ethnicity will be used only to ensure compliance with statutory and regulatory Governing Board requirements set forth in section 330 of the Public Health Service Act. Data on race and/or ethnicity collected on this form will not be used as a factor in recommending approval for FQHC

Look-Alike designation, recertification, or change in scope of project.

PIN 2009-04 provides more detail regarding this modification as well as new Tables that must be included with all application submissions.

FOR FURTHER INFORMATION CONTACT: Please contact the Office of Policy and Program Development by telephone at 301-594-4300 for any questions regarding this PIN.

Dated: February 6, 2009.

Elizabeth M. Duke,
Administrator.

[FR Doc. E9-3088 Filed 2-12-09; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chronic Fatigue Syndrome, Fibromyalgia Syndrome, Temporomandibular Disorders.

Date: February 25-27, 2009.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aftab A. Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301-594-6376, ansaria@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Mental Health and Neurodegenerative Disorders.

Date: February 27, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Suzan Nadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301-435-1259, nadis@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Radiation Oncology.

Date: March 3, 2009.

Time: 11 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Bell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7804, Bethesda, MD 20892, 301-451-8754, bellmar@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Applications in Cognition, Perception, Language, and Speech.

Date: March 4, 2009.

Time: 7 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jane A. Doussard-Roosevelt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435-4445, doussarj@csr.nih.gov.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Clinical Studies and Epidemiology Study Section.

Date: March 5-6, 2009.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 W. Mission Bay Drive, San Diego, CA 92109.

Contact Person: Hilary D Sigmon, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594-6377, sigmonh@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Diabetes, Obesity and Nutrition.

Date: March 5-6, 2009.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Krish Krishnan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435-1041, krishnak@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Musculoskeletal Biology and Tissue Engineering.

Date: March 5, 2009.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435-1787, chenp@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ACTS Member Conflict.

Date: March 5, 2009.

Time: 7 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, The Main Building, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Richard J. Bartlett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, 301-435-6809, bartletr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Rehabilitation Sciences.

Date: March 5-6, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Old Towne, 1767 King Street, Alexandria, VA 22314.

Contact Person: Jo Pelham, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435-1786, pelhamj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Brain Disorders and Clinical Neuroscience.

Date: March 6, 2009.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jay Joshi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435-1184, joshij@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ACTS Small Business Applications.

Date: March 6, 2009.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, The Main Building, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Richard J. Bartlett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, 301-435-6809, bartletr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biomaterials, Drug and Gene Delivery, and Nanotechnology.

Date: March 10, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Steven J. Zullo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7849, Bethesda, MD 20892, 301-435-2810, zullost@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Reproductive Sciences.

Date: March 11, 2009.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Krish Krishnan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435-1041, krishnak@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Reproductive Sciences and Development.

Date: March 13, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Krish Krishnan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435-1041, krishnak@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychopathology Developmental Disabilities, Stress and Aging.

Date: March 16, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 W. Mission Bay Drive, San Diego, CA 92109.

Contact Person: Maribeth Champoux, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7759, Bethesda, MD 20892, 301-594-3163, champoux@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Behavioral Neuroscience (FO2A).

Date: March 16-17, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel and Executive Meeting Center, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kristin Kramer, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 435-1172, kranerkm@csr.nih.gov.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Immunology and Pathogenesis Study Section.

Date: March 16, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW, Washington, DC 20037.

Contact Person: Shiv A. Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301-443-5779, prasads@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships for the Health of the Population.

Date: March 16, 2009.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Karin F. Helmers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 3166, MSC 7770, Bethesda, MD 20892, 301-435-1017, helmersk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Toxin Sensors, Purification and Remediation.

Date: March 16-17, 2009.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander Gubin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 5144, MSC 7812, Bethesda, MD 20892, 301-435-2902, gubina@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RM-08-020 Molecular Libraries Screening Instrumentation.

Date: March 17-18, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nitsa Rosenzweig, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7760, Bethesda, MD 20892, (301) 435-1747, rosenzweig@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship.

Date: March 17-18, 2009.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander Gubin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301-435-2902, gubina@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Immunology and Immunotherapy.

Date: March 18, 2009.

Time: 2:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817), Bethesda, MD 20892, 301-435-1715, nga@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuroprosthetics and Neurological and Auditory Devices, Small Business SEP.

Date: March 19-20, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW, Washington, DC 20037.

Contact Person: Aidan Hampson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7850, Bethesda, MD 20892, (301) 435-0634, hampsona@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Special Topics in Biological Sciences.

Date: March 19-20, 2009.

Time: 11 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Donald L. Schneider, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7842, Bethesda, MD 20892, (301) 435-1727, schneidd@csr.nih.gov.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Discovery and Development of Therapeutics, Study Section.

Date: March 20, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Shiv A. Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301-443-5779, prasads@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Predoctoral Fellowship to Promote Diversity in Health Related Research (DCPS).

Date: March 20, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Gabriel B. Fosu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3215, MSC 7808, Bethesda, MD 20892, (301) 435-3562, fosug@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, International Research in Infectious Diseases.

Date: March 20, 2009.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: John C. Pugh, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435-2398, pughjohn@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 5, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3075 Filed 2-12-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2008-1230]

IMO MARPOL Reception Facility Advance Notice Form and Waste Delivery Receipt

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The International Maritime Organization (IMO) has adopted, with the support of the U.S. Government, through its delegation to IMO's Marine Environmental Protection Committee (MEPC-58) meeting in October 2008,

standardized formats for an Advanced Notice Form (ANF) and a Waste Delivery Receipt (WDR) relating to vessel waste streams. We anticipate that the new form and receipt will be widely distributed to vessels making port calls to the U.S. The Coast Guard encourages their use.

DATES: The ANF and WDR standardized formats are available on February 13, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Commander Michael Roldan, telephone 202-372-1130, e-mail: luis.m.rolan@uscg.mil, or David Condino, MARPOL COA Project Manager, telephone 202-372-1145, e-mail: david.a.condino@uscg.mil.

SUPPLEMENTARY INFORMATION:

Adoption of the ANF and WDR Standard Forms: The use of such standardized formats will facilitate adequate reception facilities by improving communication between ship and reception facility operators with respect to the notice and delivery of operational ship's wastes. Use of standardized forms by the international shipping community and by U.S. facility operators required to maintain adequate MARPOL reception facilities will also aid the Coast Guard in investigating allegations of purported inadequate reception facilities. Additionally, the Coast Guard encourages ship operators to send a copy of the ANF to the relevant Captain of the Port (COTP) prior to arrival at a U.S. port.

ADDRESSES: The two forms can be downloaded in PDF format from the Coast Guard's Homeport public information Web site at: <https://homeport.uscg.mil/mycg/portal/ep/programView.do?channelId=-18363&programId=13055&programPage=%2Fep%2Fprogram%2Feditorial.jsp&pageTypeId=13489>.

The forms are also available on the IMO's Web site at: http://www.imo.org/circulars/mainframe.asp?topic_id=687&offset=7

The ANF Circular with the form is listed as MEPC.1/Circ.644 and the WDR Circular is listed as MEPC.1/Circ.645.

Dated: February 9, 2009.

J. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. E9-3126 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG-2009-0047]

Commercial Fishing Industry Vessel Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC) will meet in Jacksonville, FL to discuss various issues relating to commercial vessel safety in the fishing industry. This meeting will be open to the public.

DATES: The Committee will meet on March 3-5, 2009, from 8 a.m. to 5 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before February 14, 2009. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before February 14, 2009.

ADDRESSES: The Committee will meet at the Wyndham Riverwalk Jacksonville: 1515 Prudential Drive Jacksonville, FL 32207. Send written material and requests to make oral presentations to Captain Eric Christensen, Designated Federal Officer (DFO) of CFIVSAC, United States Coast Guard Fishing Vessel Safety Division (CG-5433), 2100 2nd St., SW., Washington, DC 20593. This notice and documents identified in the SUPPLEMENTARY INFORMATION section as being available in the docket may be viewed in our online docket, USCG-2009-0047, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Kemerer, Assistant to DFO of CFIVSAC, by telephone at 202-372-1246, fax 202-372-1917, e-mail: Jack.a.Kemerer@uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92-463).

Agenda of Meeting

The agenda for the CFIVSAC meeting is as follows:

- (1) Commercial Fishing Vessel Safety District Coordinators updates.
- (2) Industry Update.
- (3) Status report on the Commercial Fishing Vessel Safety Rulemaking.
- (4) Report of ongoing research work and safety related projects by the National Institute for Occupational Safety.

(5) Discussions and working group sessions by the Communications and Risk Management Subcommittees on current program strategies, future plans, and long range goals for CFIVSAC.

Procedural

This meeting is open to the public. Please note the meetings may close early if all business is finished. At the Chair's discretion, members of the public may make presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Designated Federal Officer no later than February 14, 2009. Written material for distribution at a meeting should reach the Coast Guard no later than February 14, 2009. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the DFO no later than February 14, 2009.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Designated Federal Officer as soon as possible but no later than May 14, 2008.

Dated: January 28, 2009.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. E9-3157 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG-2009-0065]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of open teleconference meeting.

SUMMARY: This notice announces a teleconference meeting of the National Offshore Safety Advisory Committee (NOSAC) to discuss items listed in the agenda as well as other items that NOSAC may consider. This meeting will be open to the public.

DATES: The teleconference call will take place on Thursday, February 26, 2009, from 10 a.m. to 11 a.m. EST. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before February 25, 2009. Requests to

have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before February 25, 2009.

ADDRESSES: The Committee will meet, via telephone conference, on February 26, 2009. Members of the public wishing to participate may contact Commander P.W. Clark at 202-372-1410 for call in information or they may participate in person by coming to Room 1303, U.S. Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593. As there are a limited number of teleconference lines, public participation will be on a first come basis. Written comments should be sent to Commander P.W. Clark, Designated Federal Officer of NOSAC, Commandant (CG-5222), 2100 Second Street, SW., Washington, DC 20593-0001; or by fax to 202-372-1926. This notice is available on our online docket, USCG-2009-0065, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Commander P.W. Clark, Designated Federal Officer of NOSAC, or Mr. Jim Magill, Assistant Designated Federal Officer, telephone 202-372-1414, fax 202-372-1926.

SUPPLEMENTARY INFORMATION: Public participation is welcome and the public may participate in person by coming to Room 1303, U.S. Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593 or by contacting COMMANDER P.W. Clark at 202-372-1410 for call in information. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda for the February 26, 2009 Committee meeting is as follows:

- (1) Introduction of Committee members and the public.
- (2) Discussion of a Coast Guard request for data on foreign vessels arriving on the U.S. Outer Continental Shelf from abroad.
- (3) Committee vote on acceptance of the aforementioned data and a decision on providing this data to the Coast Guard.
- (4) Coast Guard update on proposed changes to NVIC 03-06, Change 1.
- (5) Update on work by Subcommittee on Foreign Citizens engaged in OCS Activities.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the

public may make oral presentations during the meeting. If you would like to make an oral presentation at a meeting, please notify the DFO no later than February 25, 2009. Written material for distribution at a meeting should reach the Coast Guard no later than February 25, 2009.

Minutes

The teleconference will be recorded, and a summary will be available for public review and copying 30 days following the teleconference meeting.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Jim Magill at 202-372-1414 as soon as possible.

Dated: February 3, 2009.

Howard L. Hime,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E9-3299 Filed 2-11-09; 4:15 pm]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Agency Information Collection Activities: Arrival and Departure Record

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Revision of an existing information collection: 1651-0111.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act concerning the Form I-94 (Arrival/Departure Record), the Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure), and the Electronic System for Travel Authorization (ESTA). This is an extension (with change) of an existing collection of information. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (73 FR 75730) on December 12, 2008, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments.

This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before March 16, 2009.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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 submission of responses.

Title: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure, the Electronic System for Travel Authorization (ESTA).

OMB Number: 1651-0111.

Form Numbers: I-94 and I-94W.

Abstract: Form I-94 (Arrival/Departure Record) and Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are used to document a traveler's admission into the United States. These forms include date of arrival, visa classification and the date the authorized stay expires. The forms are also used by business employers and other organizations to confirm legal status in the United States. The Electronic System for Travel Authorization (ESTA) applies to aliens traveling to the United States under the

Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States. The recent expansion of the VWP to include seven additional countries resulted in a change to the burden hours of this collection of information.

Current Actions: This submission is being made to extend the expiration date.

Type of Review: Extension (with change).

Affected Public: Individuals.

Estimated Number of Respondents (I-94 and I-94W): 30,924,380.

Estimated Number of Respondents (ESTA): 18,000,000.

Estimated Time per Response (I-94 and I-94W): 8 minutes.

Estimated Time per Response (ESTA): 15 minutes.

Estimated Total Annual Burden Hours: 8,623,249.

Estimated Total Annualized Cost on the Public: \$185,546,280.

If additional information is required, contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: February 6, 2009.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E9-3120 Filed 2-12-09; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5256-N-01]

Allocations and Common Application and Reporting Waivers Granted to and Alternative Requirements for Community Development Block Grant (CDBG) Disaster Recovery Grantees Under 2008 Supplemental CDBG Appropriations

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of allocations, waivers, and alternative requirements.

SUMMARY: This Notice advises the public of the initial allocation of grant funds for CDBG disaster recovery grants for the purpose of assisting in the recovery in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of natural disasters that occurred in 2008. As described in the **SUPPLEMENTARY INFORMATION** section of this Notice, HUD

is authorized by statute and regulations to waive statutory and regulatory requirements and specify alternative requirements for this purpose, upon the request of the state grantees. This Notice also describes the common application, eligibility, and administrative waivers and the common alternative and statutory requirements for the grants. This Notice also grants to additional state allocatees the waivers included in the **Federal Register** published on September 11, 2008 (73 FR 52870).

DATES: *Effective Date:* February 18, 2009.

FOR FURTHER INFORMATION CONTACT:

Jessie Handforth Kome, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. Facsimile inquiries may be sent to Ms. Kome at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION:

Authority To Grant Waivers

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. 110-329, approved September 30, 2008) (hereinafter, "Second 2008 Act" to differentiate it from the earlier 2008 Supplemental Appropriations Act, Pub. L. 110-252, approved June 30, 2008) appropriates \$6.5 billion, to remain available until expended, in CDBG funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing and economic revitalization in areas affected by hurricanes, flooding, and other natural disasters that occurred during 2008, for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*). A rescission of \$377,139,920 (Pub. L. 110-161, approved December 26, 2007), and a statutory set-aside of \$6.5 million for HUD administrative costs reduces the amount to be distributed to \$6,116,360,080. The Second 2008 Act authorizes the Secretary to waive, or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these funds and guarantees, except for

requirements related to fair housing, nondiscrimination, labor standards, and the environment (including requirements concerning lead-based paint), upon a request by the state explaining why such waiver is required to facilitate the use of such funds or guarantees and a finding by the Secretary that such a waiver would not be inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974 (HCD Act). Additionally, regulatory waiver authority is provided by 24 CFR 5.110, 91.600, and 570.5. The following application and reporting waivers and alternative requirements are in response to requests from the states receiving an allocation under this Notice.

The Secretary finds that the following waivers and alternative requirements, as described below, are necessary to facilitate use of the funds for the statutory purposes and are not inconsistent with the overall purpose of Title I of the HCD Act or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Under the requirements of the Second 2008 Act and the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act), regulatory waivers must be

justified and published in the **Federal Register**.

Except as described in this Notice, statutory and regulatory provisions governing the CDBG program for states, including those at 24 CFR part 570, shall apply to the use of these funds. In accordance with the Second 2008 Act, HUD will reconsider every waiver in this Notice on the 2-year anniversary of the day this Notice is published.

Additional Waivers

Each state receiving an allocation may request additional waivers from the Department as needed to address the specific needs related to that state's recovery activities. The Department will respond separately to the state's requests for waivers of provisions not covered in this Notice, after working with the state to tailor the program to best meet the unique disaster recovery needs in its impacted areas.

Allocations

This Notice makes available \$2.145 billion of the \$6.1165 billion of supplemental appropriation for the CDBG program for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural

disasters occurring in 2008, for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

The Second 2008 Act further notes:

That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each state * * * Provided further, that funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a state under the Community Development Fund: Provided further, that each state may use up to 5 percent of its allocation for administrative costs.

HUD computes allocations based on data that are generally available and that cover all the eligible affected areas. Congress also required that states devote "not less than 650,000,000" to support "repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas where there is a demonstrated need as determined by the Secretary." HUD expects each grantee receiving an allocation to use the prorated share indicated in the allocation table for affordable rental housing activities.

State	Allocation	Affordable housing minimum *
Arkansas	\$20,294,857	\$2,156,733
Florida	17,457,005	1,855,155
Georgia	4,570,779	485,736
Illinois	41,984,121	4,461,649
Indiana	95,042,622	10,100,172
Iowa	125,297,142	13,315,318
Kentucky	3,217,686	341,943
Louisiana	438,223,344	46,569,962
Mississippi	6,283,404	667,737
Missouri	13,979,941	1,485,647
Puerto Rico	17,982,887	1,911,040
Tennessee	20,636,056	2,192,992
Texas	1,314,990,193	139,743,911
Wisconsin	25,039,963	2,660,995
Total	2,145,000,000	227,948,990

In determining the allocations, HUD focused on two factors:

- Unmet housing needs. This is each state's (or Puerto Rico's) relative share of estimated unmet housing needs for property owners experiencing serious damage to their homes; and
- Concentrated damage. To determine infrastructure and economic revitalization needs, HUD focused on areas of particular concentration of damage—specifically, each state's (or Puerto Rico's) share of seriously

damaged homes in areas where more than 20 percent of the homes experienced damage.

In the first quarter of calendar year 2009, HUD will make a final review of long-term disaster recovery needs for all states affected by disasters in 2008 to allocate the remaining \$3.972 billion. This review will include unmet housing, infrastructure, and economic revitalization needs.

A state included in the subsequent announcement may immediately

proceed to prepare and submit an Action Plan for disaster recovery in accordance with this Notice, although HUD will not be able to make the grant until the allocations and waivers are published in the **Federal Register**. Therefore, HUD commits to swiftly determining, announcing, and publishing the additional allocations once the data are available.

HUD invites each grantee receiving an allocation under the Second 2008 Act to submit an Action Plan for Disaster

Recovery in accordance with this Notice.

The Second 2008 Act requires funds be used only for specific purposes. The statute directs that each grantee will describe, in its Action Plan for Disaster Recovery, criteria for eligibility and how the use of the grant funds will address long-term recovery and infrastructure restoration, housing, and economic revitalization. HUD will monitor compliance with this direction and may be compelled to disallow expenditures if it finds uses of funds do not meet the statutory purposes, or that funds allocated duplicate other benefits. HUD encourages grantees to contact their assigned HUD offices for guidance in complying with these requirements during development of their Action Plans for Disaster Recovery or if they have any questions regarding meeting these requirements.

As provided for in the Second 2008 Act, the funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers. Further, none of the funds may be used as the required match, share, or contribution for another federal program.

Prevention of Fraud, Abuse, and Duplication of Benefits

The Second 2008 Act also directs the Secretary to:

Establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits.

To meet this directive, HUD is pursuing four courses of action. First, this Notice includes specific reporting, written procedures, monitoring, and internal audit requirements for grantees. Second, to the extent its resources allow, HUD will institute risk analysis and on-site monitoring of grantee management of the grants and of the specific uses of funds. Third, HUD will be extremely cautious in considering any waiver related to basic financial management requirements. The standard, time-tested CDBG financial requirements will continue to apply. Fourth, HUD is collaborating with the HUD Office of Inspector General to plan and implement oversight of these funds.

Waiver Justification

This section of the Notice briefly describes the basis for each waiver and related alternative requirements, if any.

Each state eligible for a disaster recovery grant receives annual CDBG allocations, has a consolidated plan, a citizen participation plan, a monitoring plan, and has made CDBG certifications. HUD encourages each CDBG disaster recovery grantee to carry out CDBG disaster recovery activities in the context of its ongoing community development program to the extent feasible (for example, by selecting activities consistent with the consolidated plan, by providing overall benefit to at least 70 percent low- and moderate-income persons, and by holding hearings or meetings to solicit public comment).

The waivers, alternative requirements, and statutory changes described in this Notice apply only to the CDBG supplemental disaster recovery funds appropriated in the Second 2008 Act and, where applicable, the Supplemental Appropriations Act, 2008 (Pub. L. 110-252, approved June 30, 2008), and not to funds provided under the regular CDBG program or those provided under any other component of the CDBG program, such as the Neighborhood Stabilization Program. These actions provide additional flexibility in program design and implementation and implement statutory requirements unique to this appropriation.

Application for Allocations Under the Second 2008 Act

These waivers and alternative requirements streamline the pre-grant process and set the guidelines for states' applications for their allocations. HUD encourages each grantee that receives an allocation to submit an Action Plan for Disaster Recovery to HUD as soon as practicable following an allocation announcement.

Overall Benefit to Low- and Moderate-Income Persons

Pursuant to explicit authority in the Second 2008 Act, HUD is granting an overall benefit waiver that allows for up to 50 percent of the grant to assist activities under the urgent need or prevention or elimination of slums or blight national objectives, rather than the 30 percent allowed under the annual state CDBG program. The primary objective of Title I of the HCD Act and of the funding program of each grantee is "development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." The statute goes on to set the standard of performance for this primary objective

at 70 percent of the aggregate of the funds used for support of activities producing benefit to low- and moderate-income persons. Since extensive damage to community structures and housing affected those with varying incomes, and income-producing jobs are often lost for a period of time following a disaster, HUD is waiving the 70 percent overall benefit requirement and establishing the 50 percent requirement in order to give grantees even greater flexibility to carry out recovery activities within the confines of the CDBG program's national objectives. HUD may provide additional waivers of this requirement only if the Secretary specifically finds a compelling need to further reduce or eliminate the percentage requirement. The requirement that each activity meet one of the three national objectives of the CDBG program is not waived.

Consistency With the Consolidated Plan

HUD is waiving the requirement for consistency with the consolidated plan because the effects of a major disaster usually alter a grantee's priorities for meeting housing, employment, and infrastructure needs. To emphasize that uses of grant funds must be consistent with the overall purposes of the HCD Act, HUD is limiting the scope of the waiver for consistency with the consolidated plan; the waiver applies only until the grantee first updates its consolidated plan priorities following the disaster.

Action Plan for Disaster Recovery

HUD is waiving the CDBG action plan requirements and substituting an Action Plan for Disaster Recovery. This will allow rapid implementation of disaster recovery grant programs and ensure conformance with provisions of the Second 2008 Act. Where possible, the Action Plan for Disaster Recovery, including certifications, does not repeat common action-plan elements the grantee has already committed to carry out as part of its annual CDBG submission. Although a state as the grantee may designate an entity or entities to administer the funds, the state is responsible for compliance with federal requirements. During the course of the grant, HUD will monitor the state's use of funds and its actions for consistency with the Action Plan. The state may submit an initial partial Action Plan and amend it one or more times subsequently until the Action Plan describes uses for the total grant amount. The state may also amend activities in its Action Plan.

Citizen Participation

The citizen participation waiver and alternative requirements will permit a more streamlined public process, but one that still provides for reasonable public notice, appraisal, examination, and comment on the activities proposed for the use of CDBG disaster recovery grant funds. The waiver removes the requirement at both the grantee and state grant recipient levels for public hearings or meetings as the method for disseminating information or collecting citizen comments.

Normally, in the CDBG program, a grantee takes at least 30 days soliciting comment from its citizens before it submits an annual action plan to HUD, which then has 45 days to accept or reject the plan. To expedite the process and to ensure that the disaster recovery grants are awarded in a timely manner, while preserving reasonable citizen participation, HUD is waiving the requirement that the grantee follow its citizen participation plan to the extent necessary to allow for a grantee to submit an Action Plan for Disaster Recovery in an expedited manner. HUD is shortening the minimum time for citizen comments and is requiring the proposed Action Plan for Disaster Recovery and any amendment thereof to be posted on the grantee's official Web site as the plan or amendment is developed, published, and submitted to HUD.

In combination, this Notice's alternative requirements provide the following expedited steps for disaster recovery grants:

- Proposed Action Plan for Disaster Recovery published via the usual methods and on the Internet for no less than 7 calendar days of public comment;
- Final Action Plan posted on the Internet and submitted to HUD (grant application includes Standard Form 424 (SF-424) and certifications; other parts of the Action Plan may initially be submitted either via Disaster Recovery Grant Reporting (DRGR) or paper);
 - HUD expedites review;
 - HUD accepts the plan and prepares a cover letter, grant agreement, and grant conditions;
 - Grant agreement signed by HUD and immediately transmitted to the grantee;
 - Grantee signs and returns the grant agreements;
 - HUD establishes the line of credit and the grantee requests and receives DRGR access (if the grantee does not already have it);
 - If it has not already done so, grantee creates an Action Plan in DRGR and

submits it to HUD. (Funds can be drawn from the line of credit only for an activity that is established in an Action Plan in DRGR.)

After completing the environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receiving from HUD or the state an approved Request for Release of Funds and certification, the grantee may draw down funds from the line of credit.

Grantees are cautioned that, despite the expedited application and plan process, they are still responsible for ensuring that all citizens have equal access to information about the programs. Among other things, this means that each grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. This will be an issue particularly for states that this notice is allowing to make grants throughout the state, including into regular CDBG entitlement areas if these entitlements are included in a relevant disaster declaration. Because regular state CDBG funds are not used in entitlement areas, state CDBG staffs may not be aware of limited-English-proficient (LEP) speaking populations in those metropolitan jurisdictions.

Administration Limitation

State program administration requirements must be modified to be consistent with the Second 2008 Act, which allows up to 5 percent of the grant to be used for administrative costs, whether by the state, by entities designated by the state, by units of local government, or by subrecipients. The provisions at 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) will not apply to the extent that they cap state administration expenditures and require a dollar-for-dollar match of state funds for administrative costs exceeding \$100,000. HUD does not waive 24 CFR 570.489(a)(3), which will allow the state to fund planning activities that may exceed the 5 percent limitation on general administrative costs.

Use of Subrecipients

The state CDBG program rule does not make specific provision for the treatment of entities called "subrecipients" in the CDBG entitlement program. The waiver allowing the state to directly carry out activities creates a situation in which the state may use subrecipients to carry out activities in a manner similar to entitlement communities rather than use a method of distributing funds to local governments. HUD and its Office of Inspector General have long

identified the use of subrecipients as a practice that increases the risk of abuse of funds. However, HUD's experience is that this risk can be successfully managed by following the CDBG entitlement requirements and related guidance. Therefore, HUD is requiring that when using subrecipients, a state taking advantage of the waiver allowing it to carry out activities directly must follow the alternative requirements drawn from the CDBG entitlement rule and specified in this Notice.

Reporting

HUD is waiving the annual reporting requirement because Congress requires quarterly reports from the grantees and from HUD on various aspects of the uses of funds and on the activities funded with these grants. Many of the data elements the grantees will report to Congress quarterly are the same as those that HUD will use to exercise oversight for compliance with the requirements of this Notice and for prevention of fraud, abuse of funds, and duplication of benefits. To collect these data elements and to meet its reporting requirements, HUD is requiring each grantee to report to HUD quarterly using the online DRGR system, which uses a streamlined, Internet-based format. Grantees will also use the recently enhanced DRGR to record obligations and to make draws of funds from the line of credit established for each grant. HUD will use the transactional data from DRGR and from grantee reports to monitor for anomalies or performance problems that suggest fraud, abuse of funds, and duplication of benefits; to reconcile budgets, obligations, funding draws, and expenditures; to calculate applicable administrative and public service limitations and the overall percent of benefit to low- and moderate-income persons; to report to Congress and the public; and as a basis for risk analysis in determining a monitoring plan.

The grantee must post the quarterly report on an Internet site for its citizens within 3 days of the report's submission to HUD. If a grantee chooses, it may use this report, together with a statement regarding any sole source procurements, as its required quarterly submission to the Committees on Appropriations. Each quarter, HUD will submit to the Committees a summary description of its report reviews, of other HUD monitoring and technical assistance activities undertaken during the quarter, and of any significant conclusions related to fraud or abuse of funds or duplication of benefits.

Eligibility—Housing Related

The waiver of Section 105(a) of the 1974 Act to allow new housing construction, and of Section 105(a)(24), to allow homeownership assistance for families whose income is up to 120 percent of median income and payment of up to 100 percent of a housing down payment, is necessary following major disasters in which large numbers of affordable housing units have been damaged or destroyed, as is the case in the disasters eligible under this Notice. The broadening of the Section 105(a)(24) waiver, in accordance with the states' requests, will allow each state to implement mixed-use housing recovery programs included in its HUD-accepted action plan.

Anti-Pirating

The limited waiver of the job relocation requirements allows the flexibility for a state to provide assistance to a business located in another state or another market area within the same state if the business was displaced from a declared area within the state by the disaster and wishes to return. This waiver is necessary to allow a grantee affected by a major disaster to rebuild its employment base.

Expanded Distribution and Direct Action

The waivers and alternative requirements allowing distribution of funds by a state to entitlement communities and Indian tribes, and to allow a state to carry out activities directly, rather than distribute all funds to units of local government, are consistent with waivers granted for previous, similar disaster recovery cases. HUD believes that, in using very similar statutory language to that used for the CDBG supplemental appropriations for Hurricane Katrina, Rita, and Wilma recovery, Congress is signaling its intent that the states under this appropriation also be able to carry out activities directly. Therefore, HUD is waiving program requirements in order to support this intent. HUD is also including in this Notice the necessary complementary waivers and alternative requirements related to subrecipients, to ensure proper management and disposition of funds during grant execution and at closeout.

Relocation Requirements

The states have indicated that they plan or wish to facilitate the ability of their local government grantees to engage in voluntary acquisition and relocation activities (in a form often called "buyouts"), by using waivers

related to acquisition and relocation requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601 *et seq.*) (URA), and the replacement of housing and relocation assistance provisions under section 104(d) of the HCD Act (42 U.S.C. 5304(d)). The states asked for waivers to help promote the acquisition of real property and relocation of displaced persons in a timely and efficient manner.

CDBG funds are federal financial assistance. Therefore, CDBG-assisted programs or projects are subject to the URA and the governmentwide implementing regulations at 49 CFR part 24. The URA's protection and assistance apply to acquisitions of real property and displacements resulting from the acquisition, rehabilitation, or demolition of real property for CDBG-assisted programs or projects. The URA provides assistance and protections to individuals and businesses affected by federal or federally assisted projects. HUD is waiving the following URA requirements to help promote accessibility to suitable decent, safe, and sanitary housing for victims of hurricanes and flooding in 2008.

The acquisition requirements of the URA and implementing regulations are waived so that they do not apply to an arm's length voluntary purchase carried out by a person who does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person. The failure to suspend these requirements would impede disaster recovery and may result in windfall payments.

A limited waiver is granted of the URA's implementing regulations to the extent that they require grantees to provide URA financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30 percent of household income. The failure to suspend these one-size-fits-all requirements could impede disaster recovery. To the extent that a tenant has been paying rent in excess of 30 percent of household income without demonstrable hardship, rental assistance payments to reduce tenant costs to 30 percent would not be required.

The URA and implementing regulations are waived to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing financial assistance obligation to a displaced renter by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy (e.g., Section 8 rental voucher

or certificate), provided that the tenant is also provided with referrals to suitable, available rental replacement dwellings where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months. Failure to grant the waiver would impede disaster recovery whenever TBRA program subsidies are available but funds for cash relocation assistance are limited. This waiver gives states an additional relocation resource option.

The URA and implementing regulations are waived to the extent that they require a grantee to offer a person displaced from a dwelling the option to receive a "moving expense and dislocation allowance" based on the current schedule of allowances prepared by the Federal Highway Administration, provided that the grantee establishes and offers the person a moving expense and dislocation allowance under a schedule of allowances that is reasonable for the jurisdiction and takes into account the number of rooms in the displacement dwelling, whether the person owns and must move the furniture, and, at a minimum, the kinds of expenses described in 49 CFR 24.301. Failure to suspend this provision would impede disaster recovery by requiring grantees to offer allowances that do not reflect current local labor and transportation costs. Persons displaced from a dwelling remain entitled to choose a payment for actual reasonable moving and related expenses if they find that approach preferable to the locally established moving expense and dislocation allowance.

In addition to the URA waivers, HUD is waiving requirements of section 104(d) of the HCD Act dealing with one-for-one replacement of lower-income dwelling units demolished or converted in connection with a CDBG-assisted development project for housing units damaged by one or more disasters. HUD is waiving this requirement because it does not take into account the large, sudden changes a major disaster may cause to the local housing stock, population, or local economy. Further, the requirement does not take into account the threats to public health and safety and to economic revitalization that may be caused by the presence of disaster-damaged housing structures that are unsuitable for rehabilitation. As it stands, the requirement would impede disaster recovery and discourage grantees from converting or demolishing disaster-damaged housing because of excessive costs that would result from replacing all such units within the specified time frame. HUD is also waiving the relocation assistance

requirements contained in section 104(d) of the HCD Act to the extent that they differ from those of the URA (42 U.S.C. 4601 *et seq.*). This change will simplify implementation while preserving statutory protections for persons displaced by projects assisted with CDBG disaster recovery grant funds.

Although the Second 2008 Act precludes the use of these disaster recovery CDBG grants for federal cost share or match, some disaster recovery CDBG funds used to support buyouts and relocation activities may be used in support of programs receiving FEMA funding. The statutory requirements of the URA are also applicable to the administration of FEMA mitigation funding, and disparities in rental assistance payments for activities funded by HUD and FEMA will thus be eliminated. FEMA is subject to the requirements of the URA. Pursuant to this authority, FEMA requires that rental assistance payments be calculated on the basis of the amount necessary to lease or rent comparable housing for a period of 42 months. HUD is also subject to these requirements, but is also covered by alternative relocation provisions authorized under 42 U.S.C. 5304(d)(2)(A)(iii) and (iv), and implementing regulations at 24 CFR 42.350. These alternative relocation benefits, available to low- and moderate-income displacees opting to receive them in certain HUD programs, require the calculation of similar rental assistance payments on the basis of 60 months, rather than 42 months, thereby creating a disparity between the available benefits offered by HUD and FEMA (although not always an actual cash difference). The waiver assures uniform and equitable treatment by allowing the URA benefits requirements to be the standard for assistance under this Notice.

Program Income

A combination of CDBG provisions limits the flexibility available to the states for the use of program income. Prior to 2002, program income earned on disaster recovery grants had usually been program income in accordance with the rules of the regular CDBG program of the applicable state and had lost its disaster recovery grant identity, thus losing use of the waivers and streamlined alternative requirements. Also, the state CDBG program rule and law are designed for a program in which the state distributes all funds rather than carrying out activities directly. The HCD Act specifically provides for a local government receiving CDBG grants from a state to retain program income if it

uses the funds for additional eligible activities under the annual CDBG program. The HCD Act allows the state to require return of the program income to the state under certain circumstances. This Notice waives the existing statute and regulations to give the states, in all circumstances, the choice of whether a local government receiving a distribution of CDBG disaster recovery funds and using program income for activities in the Action Plan may retain this income and use it for additional disaster recovery activities. In addition, this Notice allows program income to the disaster recovery grant generated by activities undertaken directly by the state or its agent(s), to retain the original disaster recovery grant's alternative requirements and waivers and to remain under the state's discretion until grant closeout, at which point any program income on hand or received subsequently will become program income to the state's annual CDBG program. The alternative requirements provide all the necessary conforming changes to the program income regulations.

Certifications

HUD is waiving the standard certifications and substituting alternative ones. The alternative certifications are tailored to CDBG disaster recovery grants and remove certifications and references that are redundant or appropriate to the annual CDBG formula program.

Waivers and Alternative Requirements for Grants Under the Supplemental Appropriations Act, 2008

In HUD's December 19, 2008 **Federal Register** notice (73 FR 77818), HUD published supplemental disaster recovery allocations and notified the states that received an initial fund allocation under that Notice that they could apply the waivers and alternative requirements of HUD's September 11, 2008 **Federal Register** notice (73 FR 52870), if they requested those waivers from HUD. Today's **Federal Register** Notice notifies Congress and the public that the states receiving initial allocations under the December 19, 2008 Notice have, with one exception, requested all the waivers and alternative requirements under HUD's September 11, 2008 notice, and that HUD is granting them. The exception is the State of Minnesota, which did not request the waivers that would allow it to carry out activities directly or to facilitate flood buyouts. Those waivers and alternative requirements, therefore, do not apply to Minnesota's grant; all the others do.

Applicable Rules, Statutes, Waivers, and Alternative Requirements; Pre-Grant Process

1. *General note.* Prerequisites to a grantee's receipt of CDBG disaster recovery assistance include adoption of a citizen participation plan; publication of its proposed Action Plan for Disaster Recovery; public notice and comment; and submission to HUD of an Action Plan for Disaster Recovery, including certifications. Except as described in this Notice, statutory and regulatory provisions governing the CDBG program for states, including those at 42 U.S.C. 5301 *et seq.* and 24 CFR part 570, shall apply to the use of these funds.

2. *Overall benefit waiver and alternative requirement.* The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), and 24 CFR 570.484 that 70 percent of funds are for activities that benefit low- and moderate-income persons are waived to stipulate that at least 50 percent of disaster recovery grant funds are for activities that principally benefit low- and moderate-income persons.

3. *Direct grant administration by states and means of carrying out eligible activities.* Requirements at 42 U.S.C. 5306 are waived to the extent necessary to allow a state to use its disaster recovery grant allocation directly to carry out state-administered activities eligible under this Notice. Activities eligible under this Notice may be undertaken, subject to state law, by the recipient through its employees, or through procurement contracts, or through loans or grants under agreements with subrecipients, or by one or more entities that are designated by the chief executive officer of the state. Unless a waiver provides otherwise, activities made eligible under section 105(a)(15) of the HCD Act, as amended, may only be undertaken by entities specified in that section, whether the assistance is provided to such an entity from the state or from a unit of general local government.

4. *Consolidated Plan waiver.* Requirements at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5); that housing activities undertaken with CDBG funds be consistent with the strategic plan, are waived. Further, 42 U.S.C. 5304(e), to the extent that it would require HUD to annually review grantee performance under the consistency criteria, also is waived. These waivers apply only until the time that the grantee first updates the consolidated plan priorities following the disaster.

5. *Citizen participation waiver and alternative requirement.* Provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C.

12707, 24 CFR 570.486, and 24 CFR 91.115(b), with respect to citizen participation requirements, are waived and replaced by the requirements below. The streamlined requirements do not mandate public hearings at either the state or local government level, but do require providing a reasonable opportunity (at least 7 days) for citizen comment and ongoing citizen access to information about the use of grant funds. The streamlined citizen participation requirements for this grant are:

a. Before the grantee adopts the action plan for this grant or any substantial amendment to this grant, the grantee will publish the proposed plan or amendment (including the information required in this Notice for an Action Plan for Disaster Recovery). The manner of publication must include prominent posting on the state, local, or other relevant Internet site and must afford citizens, affected local governments, and other interested parties a reasonable opportunity to examine the plan or amendment's contents. Subsequent to publication, the grantee must provide a reasonable time frame and method(s) (including electronic submission) for receiving comments on the plan or substantial amendment. The grantee's plans to minimize displacement of persons or entities and to assist any persons or entities displaced must be published with the Action Plan.

b. In the Action Plan, each grantee will specify its criteria for determining what changes in the grantee's activities constitute a substantial amendment to the plan. At a minimum, adding or deleting an activity or changing the planned beneficiaries of an activity will constitute a substantial change. The grantee may modify or substantially amend the Action Plan if it follows the same procedures required in this Notice for the preparation and submission of an Action Plan for Disaster Recovery. The grantee must notify HUD, but is not required to notify the public, when it makes any plan amendment that is not substantial.

c. The grantee must consider all comments received on the Action Plan or any substantial amendment and submit to HUD a summary of those comments and the grantee's response, with the Action Plan or substantial amendment.

d. The grantee must make the Action Plan, any substantial amendments, and all performance reports available to the public on the Internet and on request. In addition, the grantee must make these documents available in a form accessible to persons with disabilities and non-English-speaking persons.

During the term of this grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the Action Plan and to the grantee's use of this grant.

e. The grantee will provide a timely written response to every citizen complaint. Such response will be provided within 15 working days of the receipt of the complaint, if practicable.

6. Modify requirement for consultation with local governments. Currently, the statute and regulations require consultation with affected units of local government in the nonentitlement area of the state regarding the state's proposed method of distribution. HUD is waiving 42 U.S.C. 5306(d)(2)(C)(iv), 24 CFR 91.325(b), and 24 CFR 91.110, with the alternative requirement that the state consult with all disaster-affected units of general local government, including any CDBG-entitlement communities, in determining the use of funds.

7. Action Plan waiver and alternative requirement. The requirements at 42 U.S.C. 12705(a)(2), 42 U.S.C. 5304(a)(1), 42 U.S.C. 5304(m), 42 U.S.C. 5306(d)(2)(C)(iii), 24 CFR 1003.604, and 24 CFR 91.320 are waived for these disaster recovery grants. Each state must submit to HUD an Action Plan for Disaster Recovery that describes:

a. The effects of the covered disasters, especially in the most affected areas and populations, and the greatest recovery needs resulting from the covered disasters that have not been addressed by insurance proceeds, other federal assistance, or any other funding source;

b. The grantee's overall plan for disaster recovery including:

(1) How the state will promote sound short- and long-term recovery planning at the state and local levels, especially land-use decisions that reflect responsible flood plain management, removal of regulatory barriers to reconstruction, and prior coordination with planning requirements of other state and federal programs and entities;

(2) How the state will encourage construction methods that emphasize high quality, durability, energy efficiency, sustainability, and mold resistance, including how the state will promote enactment and enforcement of modern building codes and mitigation of flood risk, where appropriate; and

(3) How the state will provide or encourage provision of adequate, flood-resistant housing for all income groups that lived in the disaster-affected areas prior to the incident date(s) of the applicable disaster(s), including a description of the activities it plans to

undertake to address emergency shelter and transitional housing needs of homeless individuals and families (including subpopulations), to prevent low-income individuals and families with children (especially those with incomes below 30 percent of median) from becoming homeless, to help homeless persons make the transition to permanent housing and independent living, and to address the special needs of persons who are not homeless identified in accordance with 24 CFR 91.315(d);

c. Monitoring standards and procedures that are sufficient to ensure program requirements, including non-duplication of benefits, are met and that provide for continual quality assurance, investigation, and internal audit functions with responsible staff reporting independently to the Governor of the state or, at a minimum, to the chief officer of the governing body of any designated administering entity;

d. A description of the steps the state will take to avoid or mitigate occurrences of fraud, abuse, and mismanagement, especially with respect to accounting, procurement, and accountability, with a description of how the state will provide for increasing the capacity for implementation and compliance of local government grant recipients, subrecipients, subgrantees, contractors, and any other entity responsible for administering activities under this grant; and

e. Method of distribution. The state's method of distribution shall include descriptions of the method of allocating funds to units of local government and descriptions of specific projects the state will carry out directly, as applicable. The descriptions will include:

(1) When funds are to be allocated to units of local government, all criteria used to select applications from local governments for funding, including the relative importance of each criterion, and a description of how the disaster recovery grant resources will be allocated among all funding categories and the threshold factors and grant size limits that are to be applied; and

(2) When the state will carry out activities directly, the projected uses for the CDBG disaster recovery funds, by responsible entity, activity, and geographic area;

(3) How the method of distribution to local governments or use of funds described in accordance with the above subparagraphs will result in eligible uses of grant funds related to long-term recovery from specific effects of the disaster(s) or restoration of infrastructure, housing, and economic revitalization; and

(4) Sufficient information so that citizens, units of general local government, and other eligible subgrantees or subrecipients will be able to understand and comment on the Action Plan and, if applicable, be able to prepare responsive applications to the state.

f. Required certifications (see the applicable Certifications section of this Notice); and

g. A completed and executed federal form SF-424.

8. *Allow reimbursement for pre-agreement costs.* The provisions of 24 CFR 570.489(b) are applied to permit a grantee to reimburse itself for otherwise allowable costs incurred on or after the incident date of the covered disaster.

9. *Clarifying note on the process for environmental release of funds when a state carries out activities directly.* Usually, a state distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. For this grant, HUD will allow a state grantee to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a state carries out activities directly, the state must submit the certification and request for release of funds to HUD for approval.

10. *Duplication of benefits.* In general, 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. The Second 2008 Act stipulates that funds may not be used for activities reimbursable by or for which funds have been made available by FEMA or by the Army Corps of Engineers.

11. *Waiver and alternative requirement for distribution to CDBG metropolitan cities and urban counties.*

a. Section 5302(a)(7) of title 42, U.S.C. (definition of "nonentitlement area") and provisions of 24 CFR part 570 that would prohibit a state from distributing CDBG funds to units of general local government regardless of their status in the entitlement CDBG program and to Indian tribes, are waived, including 24 CFR 570.480(a), to the extent that such provisions limit the distribution of funds to units of general local government located in entitlement areas and to state or federally recognized Indian tribes. The state is required

instead to distribute funds to activities assisting a declared county or counties and eligible under this Notice without regard to the status of a local government or Indian tribe under any other CDBG program.

b. Additionally, because the state grantees under this appropriation have requested a waiver to carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining whether the state has failed to carry out its certifications so that such basis shall be that the state has failed to carry out its certifications in compliance with applicable program requirements. Also, 24 CFR 570.494 regarding timely distribution of funds is waived. However, HUD expects each state grantee to expeditiously obligate and expend all funds, including any recaptured funds or program income, and to carry out activities in a timely manner.

12. *Program income alternative requirement.* 42 U.S.C. 5304(j) and 24 CFR 570.489(e) are waived to the extent necessary to allow additional flexibility in the administration of program income.

a. Program income.

(1) For the purposes of this subpart, "program income" is defined as gross income received by a state, a unit of general local government, a tribe or a subrecipient of a state, a unit of general local government or a tribe that was generated from the use of CDBG funds, except as provided in paragraph (a)(2) of this section. When income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds; a single parcel of land purchased with CDBG funds and other funds). Program income includes, but is not limited to, the following:

(i) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;

(ii) Proceeds from the disposition of equipment purchased with CDBG funds;

(iii) Gross income from the use or rental of real or personal property acquired by the unit of general local government or tribe or subrecipient of a state, a tribe or a unit of general local government with CDBG funds, less the costs incidental to the generation of the income;

(iv) Gross income from the use or rental of real property owned by a state, tribe, or the unit of general local government or a subrecipient of a state, tribe or unit of general local

government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;

(v) Payments of principal and interest on loans made using CDBG funds;

(vi) Proceeds from the sale of loans made with CDBG funds;

(vii) Proceeds from the sale of obligations secured by loans made with CDBG funds;

(viii) Interest earned on program income pending disposition of the income, but excluding interest earned on funds held in a revolving fund account;

(ix) Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where the special assessments are used to recover all or part of the CDBG portion of a public improvement; and

(x) Gross income paid to a state, tribe, or a unit of general local government or subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

(2) "Program income" does not include the following:

(i) The total amount of funds which is less than \$25,000 received in a single year, that is retained by a unit of general local government, tribe, or subrecipient;

(ii) Amounts generated by activities eligible under section 105(a)(15) of the HCD Act and carried out by an entity under the authority of section 105(a)(15) of the HCD Act;

(3) The state may permit the unit of general local government or tribe which receives or will receive program income to retain the program income, subject to the requirements of paragraph (a)(3)(ii) of this section, or the state may require the unit of general local government or tribe to pay the program income to the state.

(i) Program income paid to the state. Program income that is paid to the state or received by the state is treated as additional disaster recovery CDBG funds subject to the requirements of this Notice and must be used by the state or distributed to units of general local government in accordance with the state's Action Plan for Disaster Recovery. To the maximum extent feasible, program income shall be used or distributed before the state makes additional withdrawals from the U.S. Treasury, except as provided in paragraph (b) of this section.

(ii) Program income retained by a unit of general local government or tribe.

(A) Program income that is received and retained by the unit of general local government or tribe before closeout of

the grant that generated the program income is treated as additional disaster recovery CDBG funds and is subject to the requirements of this Notice.

(B) Program income that is received and retained by the unit of general local government or tribe after closeout of the grant that generated the program income, but that is used to continue the disaster recovery activity that generated the program income, is subject to the waivers and alternative requirements of this Notice.

(C) All other program income is subject to the requirements of 42 U.S.C. 5304(j) and subpart I of 24 CFR part 570.

(D) The state shall require units of general local government or tribes, to the maximum extent feasible, to disburse program income that is subject to the requirements of this Notice before requesting additional funds from the state for activities, except as provided in paragraph (b) of this section.

b. Revolving funds.

(1) The state may establish or permit units of general local government or tribes to establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for revolving fund activities. Such program income is not required to be disbursed for nonrevolving fund activities.

(2) The state may also establish a revolving fund to distribute funds to units of general local government or tribes to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to fund grants to units of general local government to carry out specific activities which, in turn, generate payments to the fund for additional grants to units of general local government to carry out such activities. Program income in the revolving fund must be disbursed from the fund before additional grant funds are drawn from the U.S. Treasury for payments to units of general local government that could be funded from the revolving fund.

(3) A revolving fund established by either the state or unit of general local government shall not be directly funded or capitalized with grant funds.

c. Transfer of program income. Notwithstanding other provisions of this Notice, the state may transfer program income before closeout of the grant that generated the program income to its own annual CDBG program or to any annual CDBG-funded activities administered by a unit of general local government or Indian tribe within the state.

d. Program income on hand at the state or at its subrecipients at the time of grant closeout by HUD and program income received by the state after such grant closeout shall be program income to the most recent annual CDBG program grant of the state.

13. *Note that use of grant funds must relate to the purposes of the Second 2008 Act.* In addition to being eligible under 42 U.S.C. 5305(a) or this Notice and meeting a CDBG national objective, the Second 2008 Act requires that activities funded under this Notice must also be for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, flooding, and other natural disasters that occurred in 2008, for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of the specific natural disaster or disasters for which the state received a funding allocation.

13a. *Note on change to administration limitation.* Up to 5 percent of the grant amount may be used for administrative costs. The provisions of 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) will not apply to the extent that they cap state administration expenditures, limit a state's ability to charge a *de minimis* application fee for grant applications for activities the state carries out directly, and require a dollar-for-dollar match of state funds for administrative costs exceeding \$100,000. HUD does not waive 24 CFR 570.489(a)(3), which will allow the state to carry out planning activities that may exceed the 5 percent limitation on general administrative costs.

Reporting

14. *Waiver of performance report and alternative requirement.* The requirements for submission of a Performance Evaluation Report (PER) pursuant to 42 U.S.C. 12708 and 24 CFR 91.520 are waived. The alternative requirement is that:

a. Each grantee must submit its Action Plan for Disaster Recovery, including performance measures, into HUD's Internet-based DRGR system. (The signed certifications and the SF-424

must be, and the initial Action Plan for Disaster Recovery may be, submitted in hard copy.) As additional information about uses of funds becomes available to the grantee, the grantee must enter such detail into DRGR, in sufficient detail to serve as the basis for acceptable performance reports.

b. Each grantee must submit a quarterly performance report, as HUD prescribes, no later than 30 days following each calendar quarter, beginning after the first full calendar quarter after grant award and continuing until all funds have been expended and all expenditures reported. Each quarterly report will include information about the uses of funds during the applicable quarter including (but not limited to) the project name, activity, location, and national objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG disaster funds; beginning and ending dates of activities; and performance measures such as numbers of low- and moderate-income persons or households benefiting. Quarterly reports to HUD must be submitted using HUD's Internet-based DRGR system and, within 3 days of submission, be posted on the grantee's official Internet site open to the public.

15. *Use of subrecipients.* The following alternative requirement applies for any activity that a state carries out directly by funding a subrecipient:

a. 24 CFR 570.503, except that specific references to 24 CFR parts 84 and 85 need not be included in subrecipient agreements.

b. 24 CFR 570.502(b), except that HUD recommends but does not require application of the requirements of 24 CFR part 84.

16. *Recordkeeping.* Recognizing that the state may carry out activities directly, 24 CFR 570.490(b) is waived in such a case and the following alternative provision shall apply: State records. The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG disaster recovery funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other federal requirements, the content of records maintained by the state shall be sufficient to: enable HUD to make the applicable determinations described at 24 CFR 570.493; make compliance determinations for activities carried out directly by the state; and show how activities funded are consistent with the descriptions of activities proposed for

funding in the Action Plan. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

17. *Change of use of real property.* This waiver conforms the change of use of real property rule to the waiver allowing a state to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), "unit of general local government" shall be read as "unit of general local government or state."

18. *Responsibility for state review and handling of noncompliance.* This change conforms the rule with the waiver allowing the state to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and units of general local government, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended, as modified by this Notice. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any designated public agencies or units of general local governments and for its subrecipients.

19. *Housing-related eligibility waivers.* 42 U.S.C. 5305(a) is waived to the extent necessary to allow homeownership assistance for households with up to 120 percent of area median income and downpayment assistance for up to 100 percent of the down payment (42 U.S.C. 5305(a)(24)(D)) and to allow new housing construction.

20. *Waiver and modification of the job relocation clause to permit assistance to help a business return.* 42 U.S.C. 5305(h) and 24 CFR 570.482 are hereby waived only to allow the grantee to provide assistance under this grant to any business that was operating in the covered disaster area before the incident date of the applicable disaster and has since moved, in whole or in part, from the affected area to another state or to a labor market area within the same state to continue business.

Relocation Requirements

21. *Waiver of one-for-one replacement of units damaged by disaster.*

a. One-for-one replacement requirements at 42 U.S.C. 5304(d)(2) and (d)(3), and 24 CFR 42.375(a) are waived for lower-income dwelling units: (1) damaged by the disaster, (2) for which CDBG funds are used for conversion or demolition, and (3) which are not suitable for rehabilitation.

b. Relocation assistance requirements at 42 U.S.C. 5304(d)(2)(A) and 24 CFR 42.350 are waived, to the extent that they differ from those of the URA and its implementing regulation at 49 CFR part 24, for activities involving buyouts and other activities covered by the URA and related to disaster recovery activities assisted by the funds covered by this Notice and included in an approved Action Plan.

c. The requirements at 49 CFR 24.101(b)(2)(i)-(ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person.

d. The requirements at sections 204(a) and 206 of the URA, 49 CFR 24.2, 24.402(b)(2), and 24.404 are waived to the extent that they require the state to provide URA financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30 percent of household income. To the extent that a tenant has been paying rent in excess of 30 percent of household income without demonstrable hardship, rental assistance payments to reduce tenant costs to 30 percent would not be required. Before using this waiver, the state must establish a definition of "demonstrable hardship."

e. The requirements of sections 204 and 205 of the URA, and 49 CFR 24.402(b) are waived to the extent necessary to permit a grantee to meet all or a portion of a grantee's replacement housing financial assistance obligation to a displaced tenant by offering rental housing through a TBRA housing program subsidy (e.g., Section 8 rental voucher or certificate), provided that the tenant is also provided referrals to suitable, available rental replacement dwellings where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months.

f. The requirements of section 202(b) of the URA and 49 CFR 24.302 are waived to the extent that they require a grantee to offer a person displaced from a dwelling the option to receive a "moving expense and dislocation allowance" based on the current schedule of allowances prepared by the Federal Highway Administration,

provided that the grantee establishes and offers the person a moving expense and dislocation allowance under a schedule of allowances that is reasonable for the jurisdiction and takes into account the number of rooms in the displacement dwelling, whether the person owns and must move the furniture, and, at a minimum, the kinds of expenses described in 49 CFR 24.301.

22. Notes on flood buyouts:

a. Payment of pre-flood values for buyouts. HUD disaster recovery state grant recipients and Indian tribes have the discretion to pay pre-flood or post-flood values for the acquisition of properties located in a floodway or floodplain. In using CDBG disaster recovery funds for such acquisitions, the grantee must uniformly apply whichever valuation method it chooses.

b. Ownership and maintenance of acquired property. Any property acquired with disaster recovery grants funds being used to match FEMA Section 404 Hazard Mitigation Grant Program funds is subject to section 404(b)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, which requires that such property be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices. In addition, with minor exceptions, no new structure may be erected on the property and no subsequent application for federal disaster assistance may be made for any purpose. The acquiring entity may want to lease such property to adjacent property owners or other parties for compatible uses in return for a maintenance agreement. Although federal policy encourages leasing rather than selling such property, the property may be sold. In all cases, a deed restriction or covenant running with the land must require that the property be dedicated and maintained for compatible uses in perpetuity. Although the funds under this Notice may not be used as a match or cost share for FEMA programs, HUD urges grantees carrying out buyouts with funds under this Notice to consider implementing the same or similar use restrictions on properties acquired under CDBG-assisted buyouts.

c. Future federal assistance to owners remaining in floodplain.

(1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. In general, it provides that no federal disaster relief assistance made available in a flood disaster area may be used to make a payment

(including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received federal flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable federal law on such property. (Section 582 is self-implementing without regulations.) This means that a grantee may not provide disaster assistance for the above-mentioned repair, replacement, or restoration to a person who has failed to meet this requirement.

(2) Section 582 also implies a responsibility for a grantee that receives CDBG disaster recovery funds or that, under 42 U.S.C. 5321, designates annually appropriated CDBG funds for disaster recovery. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so. These requirements are described below.

(3) Duty to notify. In the event of the transfer of any property described in paragraph d., the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to:

(i) Obtain flood insurance in accordance with applicable federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(ii) Maintain flood insurance in accordance with applicable federal law with respect to such property. Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(4) Failure to notify. If a transferor fails to provide notice as described above and, subsequent to the transfer of the property:

(i) The transferee fails to obtain or maintain flood insurance, in accordance with applicable federal law, with respect to the property;

(ii) The property is damaged by a flood disaster; and

(iii) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage, the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the federal disaster relief

assistance provided with respect to the property.

d. The notification requirements apply to personal, commercial, or residential property for which federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable federal law with respect to such property.

e. The term "Federal disaster relief assistance" applies to HUD or other federal assistance for disaster relief in "flood disaster areas." The term "flood disaster area" is defined in section 582(d)(2) of the National Flood Insurance Reform Act of 1994, as amended, to include an area receiving a presidential declaration of a major disaster or emergency as a result of flood conditions.

23. *Information collection approval note.* HUD has approval for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) under OMB control number 2506-0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, nor is a person required to respond to, a collection of information, unless the collection displays a valid control number.

Certifications

24. *Certifications for state governments, waiver, and alternative requirement.* Section 91.325 of title 24 of the Code of Federal Regulations is waived. Each state must make the following certifications prior to receiving a CDBG disaster recovery grant:

a. The state certifies that it will affirmatively further fair housing, which means that it has or will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See 24 CFR 570.487(b)(2).)

b. The state certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.

c. The state certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by part 87.

d. The state certifies that the Action Plan for Disaster Recovery is authorized under state law and that the state, and any entity or entities designated by the state, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.

e. The state certifies that it will comply with the acquisition and relocation requirements of the URA, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for this grant.

f. The state certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

g. The state certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 (except as provided for in notices providing waivers and alternative requirements for this grant), and that each unit of general local government that is receiving assistance from the state is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).

h. The state certifies that it has consulted with affected units of local government in counties designated in covered major disaster declarations in the nonentitlement, entitlement, and tribal areas of the state in determining the method of distribution of funding.

i. The state certifies that it is complying with each of the following criteria:

(1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of natural disasters that occurred and were declared in 2008.

(2) With respect to activities expected to be assisted with CDBG disaster recovery funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.

(3) The aggregate use of CDBG disaster recovery funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the amount is expended for activities that benefit such persons during the designated period.

(4) The state will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (A) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).

j. The state certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.

k. The state certifies that it has and that it will require units of general local government that receive grant funds to certify that they have adopted and are enforcing:

(1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

(2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

l. The state certifies that each state grant recipient or administering entity has the capacity to carry out disaster recovery activities in a timely manner, or the state has a plan to increase the capacity of any state grant recipient or administering entity who lacks such capacity.

m. The state certifies that it will not use CDBG disaster recovery funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR part 55.

n. The state certifies that it will comply with applicable laws.

Grant of Waivers for Grants Under the Supplemental Appropriations Act, 2008

The states receiving initial allocations under HUD's Federal Register notice published on December 19, 2003, (73 FR 77818) have, with one exception, requested all the waivers and alternative requirements provided by HUD's September 11, 2008, Federal Register notice (73 FR 52870), and HUD is granting them. The exception is the State of Minnesota, which did not request the waivers that would allow it to carry out activities directly or to facilitate flood buyouts. Those waivers and alternative requirements, therefore, do not apply to Minnesota's grant; all the others do.

Duration of Funding

Availability of funds provisions in 31 U.S.C. 1551-1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510), limit the availability of certain appropriations for expenditure. This limitation may not be waived. However, the Second 2008 Act for these grants directs that these funds be available until expended unless, in accordance with 31 U.S.C. 1555, HUD determines that the purposes for which the appropriation has been made have been carried out and no disbursement has been made against the appropriation for 2 consecutive fiscal years. In such a case, HUD shall close out the grant prior to expenditure of all funds.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this Notice are as follows: 14.219; 14.228.

Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by

calling the toll-free Federal Information Relay Service at 800-877-8339.

Dated: February 10, 2009.

Shaun Donovan,

Secretary.

[FR Doc. E9-3216 Filed 2-11-09; 11:15 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-EA-2008-N0019; 97600-9792-0000-5d]

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, Fish and Wildlife Service, announce a public meeting of the Sport Fishing and Boating Partnership Council (Council).

DATES: The meeting will be held on Monday, March 2, 2009, from 1 p.m. to 5 p.m. and Tuesday, March 3, 2009 from 8:30 a.m. to 1:30 p.m. (Eastern Time). Members of the public wishing to participate in the meeting must notify Douglas Hobbs by close of business on Monday, February 23, 2009, per instructions under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Department of the Interior, in the Room 5160, 1849 C Street, NW., Washington, DC; telephone (703) 358-2336.

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Council Coordinator, 4401 North Fairfax Drive, Mailstop 3103-AEA, Arlington, VA 22203; telephone (703) 358-2336; fax (703) 358-2548; or via e-mail at doug_hobbs@fws.gov.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Sport Fishing and Boating Partnership Council will hold a meeting on Monday, March 2, 2009, from 1 p.m. to 5 p.m. and Tuesday, March 3, 2009 from 8:30 a.m. to 1:30 p.m. (Eastern time).

The Council was formed in January 1993 to advise the Secretary of the Interior, through the Director, U.S. Fish and Wildlife Service, on nationally-significant recreational fishing, boating, and aquatic resource conservation issues. The Council represents the interests of the public and private sectors of the sport fishing, boating, and conservation communities and is

organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary of the Interior, includes the Director of the Service and the president of the Association of Fish and Wildlife Agencies, who both serve in *ex officio* capacities. Other Council members are Directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, Native American tribes, aquatic resource outreach and education, and tourism. Background information on the Council is available at <http://www.fws.gov/sfbpc>.

The Council will convene to consider: (1) The Council's continuing role in providing input to the Fish and Wildlife Service on the Service's strategic plan for its Fisheries Program; (2) the Council's work in addressing the issue of boating and fishing access; (3) the Council's work to assess the Sport Fish Restoration Boating Access Program; (4) information pertaining to Sport Fish Restoration and Boating Trust Fund; (6) the Council's role in providing the Secretary with information about the implementation of the Strategic Plan for the National Outreach and Communications Program, authorized by the 1998 Sportfishing and Boating Safety Act, that is now being implemented by the Recreational Boating and Fishing Foundation, a private, nonprofit organization; and (7) other Council business. The final agenda will be posted on the Internet at <http://www.fws.gov/sfbpc>.

Procedures for Public Input:

Interested members of the public may submit relevant written or oral information for the Council to consider during the public meeting. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements or those who had wished to speak but could not be accommodated on the agenda are invited to submit written statements to the Council.

Individuals or groups requesting an oral presentation at the public Council meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Douglas Hobbs, Council Coordinator, in writing (preferably via e-mail), by Monday, February 23, 2008 (see **FOR FURTHER INFORMATION CONTACT**) to be placed on the public speaker list for this meeting.

Written statements must be received by Thursday, February 26, 2009, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

In order to attend this meeting, you must register by close of business Monday, February 23, 2009. Because entry to Federal buildings is restricted, all visitors are required to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Douglas Hobbs. Mr. Hobbs' e-mail address is doug_hobbs@fws.gov, and his phone number is (703) 358-2336.

Summary minutes of the conference will be maintained by the Council Coordinator at 4401 N. Fairfax Drive, MS-3103-AEA, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

Dated: January 30, 2009.

Rowan W. Gould,

Acting Director.

[FR Doc. E9-2992 Filed 2-12-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-FHC-2009-N0029; 94300-1122-0000-22]

Wind Turbine Guidelines Advisory Committee; Announcement of Public Teleconference and Webcast

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public teleconference and webcast.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), will host a Wind Turbine Guidelines Advisory Committee (Committee) meeting via webcast and teleconference, on March 6, 2009. This meeting is open to the public but will be limited to 75 public participants. The meeting agenda will include a briefing and discussion of the Information, Planning, and Consultation System (IPaC) to inform the Committee in its development of recommendations to the Secretary of the Interior.

DATES: Meeting: The meeting will take place on March 6, 2009, from 1 to 3 p.m. Eastern Time.

Pre-meeting Public Registration: If you are a member of the public wishing to participate in the March meeting, you must register online by February 27, 2009 (see "Meeting Participation Information" in **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Rachel London, Division of Habitat and Resource Conservation, U.S. Fish and Wildlife Service, Department of the Interior, (703) 358-2161.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2007, the Department of the Interior (Interior) published a notice of establishment of the Committee and call for nominations in the **Federal Register** (72 FR 11373). The Committee's purpose is to provide advice and recommendations to the Secretary of the Interior (Secretary) on developing effective measures to avoid or minimize impacts to wildlife and their habitats related to land-based wind energy facilities. Committee is expected to exist for 2 years. Its continuation is subject to biennial renewal. The Committee meets approximately four times per year, and all Committee members serve without compensation.

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), a copy of the Committee's charter has been filed with the Committee Management Secretariat, General Services Administration; Committee on Environment and Public Works, U.S. Senate; Committee on Natural Resources, U.S. House of Representatives; and the Library of Congress. The Secretary appointed 22 individuals to the Committee on October 24, 2007, representing the varied interests associated with wind energy development and its potential impacts to wildlife species and their habitats. We held five Committee meetings in 2008, and held a sixth meeting January 27-29, 2009. All Committee meetings are open to the public. The public has an opportunity to comment at all Committee meetings.

Meeting Participation Information

This meeting is open to the public and is limited to 75 registrants. Members of the public planning to participate must register at http://www.fws.gov/habitatconservation/windpower/wind_turbine_advisory_committee.html by close of business, February 27, 2009. Registrants will be provided with

instructions for participation via e-mail. We will give preference to registrants based on date and time of registration.

Dated: January 30, 2009.

Rachel London,

Wind Turbine Guidelines Advisory
Committee Alternate Designated Federal
Officer.

[FR Doc. E9-3158 Filed 2-12-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bureau of Reclamation

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[FWS-R8-2008-N0345; 1112-0000-80221-F2]

Bay Delta Conservation Plan for the Sacramento-San Joaquin Delta, CA

AGENCIES: Fish and Wildlife Service, Interior; Bureau of Reclamation, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and notice of public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Fish and Wildlife Service (FWS), the Bureau of Reclamation (Reclamation), and the National Marine Fisheries Service (NMFS) will serve as co-lead agencies in the preparation of a joint EIS/EIR for the Bay Delta Conservation Plan (BDCP). The California Department of Water Resources (DWR) will serve as the lead agency under the California Environmental Quality Act (CEQA), which requires the preparation of the EIR component of the EIS/EIR. FWS will serve as the administrative lead for all actions related to this Federal Register Notice (Notice). The Federal co-lead agencies have requested that the U.S. Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA) participate in the EIS/EIR as cooperating agencies for the purposes of their regulatory programs. The Corps and EPA have indicated that they will participate in such a role.

This Notice revises and updates the Notices of April 15, 2008 and January 24, 2008. In these previous Notices the description of the proposed action and

possible alternatives were preliminary in nature and relied upon initial BDCP planning documents which describe the overall intent and direction of potential actions. Following publication of these previous Notices, preliminary scoping comments were submitted in writing and provided at preliminary scoping meetings. Some of the scoping comments indicated that more detailed descriptions of the proposed actions and alternatives are needed to allow specific comments on the range of alternatives and issues and levels of detail to be considered in the analyses of environmental consequences. Public comments received during this scoping period plus the previous two preliminary scoping periods will be considered during the preparation of the EIS/EIR. Comments submitted in response to the previous notices will be considered and do not need to be resubmitted.

The BDCP is a conservation plan being prepared to meet the requirements of the federal Endangered Species Act (ESA), the California Endangered Species Act (CESA), and the State of California's Natural Communities Conservation Planning Act (NCCPA). DWR (and potentially State and Federal water contractors) intends to apply for ESA and CESA incidental take permits (ITP) for water operations and management activities in the Sacramento-San Joaquin Delta. These incidental take authorizations would allow the incidental take of threatened and endangered species resulting from covered activities and conservation measures that will be identified through the planning process, including those associated with water operations of the Federal Central Valley Project (CVP), as operated by Reclamation, the California State Water Project (SWP), as operated by DWR, as well as operations of certain Mirant Delta LLC (Mirant Delta) power plants. Additionally, if feasible, the BDCP will be used as the basis for ESA compliance by Reclamation, including compliance with Section 7 of ESA in coordination with FWS and NMFS. Ultimately, the BDCP is intended to secure authorizations that would allow projects that restore and protect water supplies, water quality, and ecosystem health to proceed within a stable regulatory framework.

DATES: Ten public scoping meetings, open house format, will be held at various times and locations throughout California. See **SUPPLEMENTARY INFORMATION** section for public scoping meeting dates.

Written comments on the scope of the BDCP or issues to be addressed in the

EIS/EIR must be received no later than May 14, 2009.

ADDRESSES: Send written comments to Lori Rinek, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA 95825, e-mail to lori_rinek@fws.gov, or fax to (916) 414-6713. See **SUPPLEMENTARY INFORMATION** section for public scoping meeting addresses.

FOR FURTHER INFORMATION CONTACT: Lori Rinek, FWS, 916-414-6600; Patti Idlof, Reclamation, 916-978-5056; or Rosalie del Rosario, NMFS, 916-930-3600.

SUPPLEMENTARY INFORMATION:

Public Scoping Meeting Dates

Public scoping meetings will be held on the following dates and times:

- Monday, March 9, 2009, 6 p.m. to 10 p.m., Chico, CA.
- Tuesday, March 10, 2009, 6 p.m. to 10 p.m., San Jose, CA.
- Wednesday, March 11, 2009, 6 p.m. to 10 p.m., Bakersfield, CA.
- Thursday, March 12, 2009, 1 p.m. to 4 p.m., Los Angeles, CA.
- Monday, March 16, 2009, 6 p.m. to 10 p.m., San Diego, CA.
- Tuesday, March 17, 2009, 6 p.m. to 10 p.m., Merced, CA.
- Wednesday, March 18, 2009, 6 p.m. to 10 p.m., Davis, CA.
- Thursday, March 19, 2009, 1 p.m. to 4 p.m., Sacramento, CA.
- Monday, March 23, 2009, 6 p.m. to 10 p.m., Brentwood, CA.
- Tuesday, March 24, 2009, 6 p.m. to 10 p.m., Stockton, CA.
- Wednesday, March 25, 2009, 6 p.m. to 10 p.m., Fairfield, CA.
- Thursday, March 26, 2009, 6 p.m. to 10 p.m., Clarksburg, CA.

Public Scoping Meeting Addresses

Public scoping meetings will be held at the following locations:

- Chico—Masonic Family Center, 1110 West East Avenue, Chico, CA 95926.
- San Jose—San Jose Marriott, 301 South Market Street, Blossom Hill and Almaden Rooms, San Jose, CA 95113.
- Bakersfield—Bakersfield Marriott at the Convention Center, 801 Truxtun Avenue, Salon A and Hammons Rooms, Bakersfield, CA 93301.
- Los Angeles—Junipero Serra State Building, 320 West Fourth, Los Angeles, CA 90013.
- San Diego—Marina Village Conference Center, 1936 Quivera Way, Captains Room and Room C8, San Diego, CA 92109.
- Merced—Merced High School, 205 West Olive Avenue, Merced, CA 95344.
- Davis—Veterans Center, 203 East 14th Street, Davis, CA 95616.

- Sacramento—Hyatt Regency, 1209 L Street, Sacramento, CA 95814.
- Brentwood—Brentwood Community Multipurpose Room, 730 Third Street, Brentwood, CA 94513.
- Stockton—Stockton Civic Memorial Auditorium, 525 North Center Street, Stockton, CA 95202.
- Fairfield—Hilton Garden Inn, 2200 Gateway Court, Willow and Larkspur Rooms, Fairfield, CA 94533.
- Clarksburg—Clarksburg Community Church, 52910 Netherlands Avenue, Clarksburg, CA 95612.

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Lori Rinek at (916) 414-6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Background Information

The BDCP is being prepared through a collaboration of State, Federal, and local water agencies, and Mirant Delta, an electric power generating facility located in West Pittsburg, California in Contra Costa County, under: (1) Section 10(a)(1)(B) of the ESA of 1973, as amended, and (2) the NCCPA, California Fish and Game Code, Section 2800 *et seq.*, or Fish and Game Code Section 2081 of CESA. The BDCP is intended to provide (1) Reclamation the ability to obtain a Biological Opinion and incidental take statements (ITS) pursuant to Section 7 of ESA, and (2) the basis for the DWR (and potentially State and Federal water contractors) to apply for ITPs pursuant to Section 10 of ESA and California Fish and Game Code Section 2835 or 2081 for implementation of the BDCP.

DWR and Reclamation, along with the Metropolitan Water District of Southern California (MWD), the Kern County Water Agency (KCWA), the Santa Clara Valley Water District (SCVWD), Alameda County Flood Control and Water Conservation District, Zone 7 Water Agency (Zone 7), the San Luis and Delta-Mendota Water Authority (SLDMWA), the Westlands Water District (WWD), and Mirant Delta (known collectively as the "Potentially Regulated Entities" or PREs) are currently preparing the BDCP for existing and proposed covered activities within the Statutory Delta. Some elements of the BDCP will complement the actions identified in the State of California's Delta Vision process, which

was a process convened by Governor Schwarzenegger to provide advice with respect to how to improve environmental conditions in the Delta while rendering it a more reliable source of water supply.

It is the goal of the PREs that the BDCP meets:

- (1) The requirements of Section 10(a)(1)(B) of the ESA for the non-federal PREs and result in the issuance of ITPs from the FWS and NMFS to those PREs;
- (2) The requirements of an ITP under the California fish and wildlife protection laws, either pursuant to Section 2835 or Section 2081 of the Fish and Game Code, resulting in take authority under either one of those statutes; and
- (3) The requirements of the Section 7 consultation process under the ESA, resulting in the issuance of Biological Opinions, and ITSs, from the NMFS and FWS on specific activities of certain members of the PREs.

Purpose and Need for Action

Background

This EIS is being developed for the following proposed actions and federal regulatory agency responses:

- (1) DWR, Reclamation, other PREs, and possibly other persons or entities implementing the BDCP;
- (2) DWR and possibly other PREs applying to the FWS for incidental take permits pursuant to the ESA section 10(a)(1)(B); and
- (3) DWR and possibly other PREs applying to the NMFS for incidental take permits pursuant to the federal ESA section 10(a)(1)(B).

The proposed federal actions that are being evaluated in this EIS are:

- (1) FWS issuing an ESA Section 10(a)(1)(B) permit(s);
- (2) NMFS issuing an ESA Section 10(a)(1)(B) permit(s); and
- (3) Reclamation's implementation of one or more components of the BDCP.

Reclamation, as a federal agency, obtains incidental take authorization through consultation with FWS and NMFS under Section 7 of the ESA. Reclamation will initiate Section 7 consultation with FWS and NMFS for any BDCP components to be implemented by Reclamation. Additionally, in a parallel yet separate process, Reclamation will be required to reinstate Section 7 consultation on the long-term operation of the CVP, as coordinated with the SWP, to the extent that such coordinated operations may be modified to effectively be integrated with any operational or facility improvements that may occur from implementation of the BDCP.

Purpose

The purposes of the proposed actions are to achieve the following:

Respond to the applications for incidental take permits for the covered species that authorize take related to:

- (1) The operation of existing SWP Delta facilities and construction and operation of facilities for the movement of water entering the Delta from the Sacramento Valley watershed to the existing SWP and CVP pumping plants located in the southern Delta;
- (2) The implementation of any conservation actions that have the potential to result in take of species that are or may become listed under the ESA, pursuant to the ESA at section 10(a)(1)(B) and its implementing regulations and policies;
- (3) The diversion and discharge of water by Mirant LLC for power generation in the Western Delta.

Improve the ecosystem of the Delta by:

- (1) Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species; and
- (2) Protecting, restoring, and enhancing certain aquatic, riparian, and associated terrestrial natural communities and ecosystems.
- (3) Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP;

Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of state and federal law and the terms and conditions of water delivery contracts held by SWP contractors and certain members of SLDMWA.

Need

Water for a wide range of in-stream, riparian and other beneficial uses, including drinking water for over 25 million Californians and irrigation water for agricultural lands in the Delta and the San Joaquin Valley, is currently routed through the Delta. While some beneficial water users depend on the Delta for only a portion of their water needs, others are highly or totally dependent on supplies from the Delta. Conflicts have arisen and intensified among users of Delta water as total volume of water used and competition for the finite quantity of water available to be applied among those uses has increased over time. Such conflicts are magnified in years with reduced

precipitation in the watershed of the Sacramento and San Joaquin valleys.

Requirements have been established for the direction and magnitude of water flows moving through the Delta, and the volume of water and the timing requirements for its release associated with meeting the habitat requirements for threatened and endangered fish species. There exists a need to protect and recover these species. However, these requirements alone are unlikely to recover the species and they have also reduced the ability of the CVP and SWP to meet the quantity and timing of water delivered from the Delta for beneficial consumptive uses. Additionally, the levees in the Delta are at constant risk of failure from a number of causes, including seismic activity and sea level rise associated with global climate change. The ability to export water from the Delta for beneficial use would be compromised should one or more of these levees fail, resulting in an interruption of water supply for both urban and agricultural uses, as well as cause severe degradation of water quality in the Delta with potential adverse impacts upon the aquatic ecosystem and the ability to apply water from the Delta to beneficial use. Improvements to the conveyance system are needed to respond to these increased demands upon and risks to water supply reliability, water quality, and the aquatic ecosystem.

The EIS provides analysis for alternatives developed to address the purpose and needs identified above.

Project Area

The planning area for the BDCP will consist of the aquatic and terrestrial ecosystems and natural communities and, potentially, the adjacent riparian and floodplain natural communities within the Statutory Delta. The Statutory Delta includes parts of Yolo, Solano, Contra Costa, San Joaquin, and Sacramento counties. However, it may be necessary for the BDCP to include conservation actions outside of the Statutory Delta that advance the goals and objectives of the BDCP within the Delta, including as appropriate, conservation actions in the Suisun Marsh, Suisun Bay, and areas upstream of the Delta. Any conservation actions outside the Statutory Delta would be implemented pursuant to cooperative agreements or similar mechanisms with local agencies, interested non-governmental organizations, landowners, and others. The EIS/EIR project area for which impacts are evaluated may be different than the BDCP geographic scope.

Covered Activities

The BDCP covered activities may include, but are not limited to, existing or new activities related to:

- (1) Existing Delta conveyance elements and operations of the CVP and SWP;
- (2) New Delta conveyance facilities (including power line alignments) and operations of the CVP and SWP generally described in the BDCP November 2007 Points of Agreement (<http://resources.ca.gov/bdcp/>);
- (3) Operational activities, including emergency preparedness of the CVP and SWP in the Delta;
- (4) Operational activities in the Delta related to water transfers involving water contractors or to serve environmental programs;
- (5) Maintenance of the CVP, SWP, and other PREs' facilities in the Delta;
- (6) Facility improvements of the CVP and SWP within the Statutory Delta (California Water Code Section 12220);
- (7) Ongoing operation of and recurrent and future projects related to other Delta water users, as defined by the BDCP Planning Agreement (<http://resources.ca.gov/bdcp/>);
- (8) Projects designed to improve Delta salinity conditions; and
- (9) Conservation measures included in the BDCP, including, but not limited to, fishery related habitat restoration projects, adaptive management, and monitoring activities in the Delta.

Covered Species

Species proposed for coverage in the BDCP are species that are currently listed as Federal or State threatened or endangered or have the potential to become listed during the life of the BDCP and have some likelihood to occur within the project area. The covered species that are the initial focus of the BDCP include certain aquatic species such as:

- (1) Central Valley steelhead *Oncorhynchus mykiss*;
- (2) Central Valley Chinook salmon *Oncorhynchus tshawytscha* (spring-run and fall/late fall-runs);
- (3) Sacramento River Chinook salmon *Oncorhynchus tshawytscha* (winter-run);
- (4) Delta smelt *Hypomesus transpacificus*;
- (5) Green sturgeon *Acipenser medirostris*;
- (6) White sturgeon *Acipenser transmontanus*;
- (7) Splittail *Pogonichthys macrolepidotus*; and
- (8) Longfin smelt *Spirinchus thaleichthys*.

Other species that will be considered for inclusion in the BDCP include, but may not be limited to:

- (1) Swainson's hawk *Buteo swainsoni*;
 - (2) Bank swallow *Riparia riparia*;
 - (3) Giant garter snake *Thamnophis gigas*; and
 - (4) Valley elderberry longhorn beetle *Desmocerus californicus dimorphus*.
- This list identifies the species that will be evaluated for inclusion in the BDCP as proposed covered species; however, the list may change as the planning process progresses. The participants anticipate that species may be added or removed from the list once more is learned about the nature of the covered activities and the impact of covered activities on native species within the planning area.

Alternatives

The BDCP will likely consist of three major elements: (1) Actions to improve ecological productivity and sustainability in the Delta; (2) potential capital improvements to the water conveyance system, and; (3) potential changes in Delta-wide operational parameters of the CVP and SWP associated with improved water conveyance facilities.

Potential habitat restoration measures that could improve ecological productivity and sustainability in the Delta may involve the restoration of floodplain; freshwater intertidal marsh; brackish intertidal marsh; channel margin, and riparian habitats. Floodplain restoration opportunities exist in the North Delta/Yolo Bypass and upper San Joaquin River areas; intertidal marsh restoration opportunities exist throughout the Delta and in Suisun Marsh. Channel margin habitat restoration opportunities exist for improving habitat corridors and as a component of floodplain restoration. Riparian habitat restoration opportunities exist as a component of floodplain, freshwater intertidal marsh, and channel margin habitat restoration.

Three general alternatives are being considered as they relate to the potential changes in the water conveyance system and CVP/SWP operations. These include: (1) A through-Delta alternative; (2) a dual conveyance alternative; and (3) an isolated facility alternative. In addition, the implications of taking no action, the No Action alternative, will be considered in the analysis. The dual conveyance alternative may include potential new points of diversion at various locations in the North Delta, facilities to move water from new points of diversion to the existing SWP and CVP pumping facilities in the South Delta, and continued use of the existing

diversions in the South Delta. The fully isolated facility alternative would include potential new points of diversion at various locations in the North Delta and facilities to move water from new points of diversion to the existing SWP and CVP pumping facilities in the South Delta. The improved through-Delta alternative could include new temporary or permanent barriers to modify existing hydraulics or fish movement within the Delta, armoring of levees along Delta waterways to ensure continued conveyance capacity, and/or actions to improve conveyance capacity in existing Delta waterways.

New points of diversion could be located along the Sacramento River between South Sacramento and Walnut Grove. The new conveyance facility could extend from the new points of diversion to the existing SWP and CVP pumping facilities in the South Delta and be located either to the west or east of the Sacramento River. Potential CVP/SWP operations changes include the seasonal, daily, and real time amounts, rates, and timing of water diverted through and/or around the Delta. Potential corresponding changes to water exports could also be developed.

Other actions to reduce threats to listed fish that may be evaluated for implementation by the BDCP include measures to minimize other stressors. These other stressors may include: (1) Non-native invasive species; (2) toxic contaminants; (3) other water quality issues; (4) hatcheries; (5) harvest; (6) non-project diversions; and (7) commercial/recreational activities. Implementation of potential habitat restoration activities and measures to minimize other stressors will be evaluated throughout the Delta, and possibly upstream and downstream of the Delta, as appropriate to meet the objectives of the plan.

Preliminary locations, alignments, and capacities of new conveyance facilities, as well as habitat restoration activities and actions to address other stresses, to be evaluated in the EIS/EIR will be informed by the scoping process. In addition to the alternatives described above, other reasonable alternatives identified through the scoping process will be considered for potential inclusion in the alternatives analysis.

Statutory Authority

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA and its implementing regulations (40 CFR

part 1500 *et seq.*; NOAA Administrative Order 216-6) (43 CFR Part 46), a reasonable range of alternatives to the proposed action are to be developed and considered in an EIS/EIR prepared by the FWS and NMFS. Alternatives considered for analysis in an EIS/EIR may include variations in the scope or types of covered activities; variations in the location, amount, and types of conservation measures and the timing of project activities; variations in permit duration; or a combination of these or other elements. In addition, as required by NEPA, the EIS will identify significant direct, indirect, and cumulative effects, and possible mitigation for those significant effects, on biological resources, land use, air quality, water quality, water resources, socioeconomic, environmental justice, cultural resources, and other environmental issues that could occur with the implementation of the proposed action and alternatives.

Request for Comments

The purpose of this notice is to advise other Federal and State agencies, affected Tribes, and the public of our intention to continue to gather information to support the preparation of an EIS/EIR, to obtain suggestions and information from other agencies and the public on the scope of alternatives and issues to be addressed in the EIS/EIR, and to identify important issues raised by the public related to the development and implementation of the BDCP. Written comments from interested parties are invited to ensure that the full range of alternatives and issues related to the development of the BDCP is identified. Comments during this stage of the scoping process will only be accepted in written form. You may submit written comments by mail, facsimile transmission, or in person (see **ADDRESSES**). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. Comments and participation in the scoping process are encouraged.

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Ken McDermond,
Deputy Regional Director, Pacific Southwest Region, U.S. Fish and Wildlife Service, Sacramento, CA.

Mike Chotkowski,
Acting Regional Environmental Officer, Mid-Pacific Region, Bureau of Reclamation.

Russ Strach,
Assistant Regional Administrator, Protected Resources, Southwest Region, National Marine Fisheries Service.

[FR Doc. E9-3103 Filed 2-12-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 33447]

Public Land Order No. 7730; Withdrawal of National Forest System Land for the Red Rock Ranger District Administrative Site; Arizona

Correction

In notice document E9-2632 appearing on page 6417 in the issue of February 9, 2009, make the following correction:

In the second column, beneath subheading "Gila and Salt River Meridian", the third line should read:
E½SE¼NE¼A.

[FR Doc. Z9-2632 Filed 2-12-09; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[DES 09-02]

Aspinall Unit, Colorado River Storage Project, CO

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of Aspinall Unit Operations Draft Environmental Impact Statement.

SUMMARY: The Bureau of Reclamation (Reclamation), the Federal agency responsible for operation of the Aspinall Unit, has prepared and made available to the public a draft environmental impact statement (DEIS) on Aspinall Unit operations pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4332.

DATES: A public review period commences with the publication of this notice. Written comments on the DEIS

are due by Friday, April 24, 2009, and should be submitted to Steve McCall at the address given below. Public hearings will be held during the month of April in Gunnison and Delta, Colorado. The public hearings schedule is as follows:

- *Tuesday, April 7, 2009*—6:30 p.m. to 9 p.m.—Gunnison County Fairgrounds, 275 S. Spruce Street, Gunnison, Colorado.

- *Wednesday, April 8, 2009*—6:30 p.m. to 9 p.m.—Bill Heddles Recreation Center, 530 Gunnison River Drive, Delta, Colorado.

ADDRESSES: Written comments on the DEIS and requests for copies should be addressed to Steve McCall, Bureau of Reclamation, Western Colorado Area Office, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506; telephone (970) 248-0638; facsimile (970) 248-0601; e-mail: smccall@uc.usbr.gov. The DEIS is also available on Reclamation's Web site at <http://www.usbr.gov/uc/> (click on Environmental Documents).

Copies of the DEIS are available for public review and inspection at the following locations:

- Main Interior Building, Natural Resources Library, Room 1151, 1849 C Street, NW., Washington, DC 20240-0001.

- Bureau of Reclamation, Denver Office Library, Denver Federal Center, Sixth and Kipling, Building 67, Room 167, Denver, Colorado 80225-0007.

- Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 7418, Salt Lake City, Utah 84138-1147.

- Bureau of Reclamation, Western Colorado Area Office, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506.

Libraries

- Delta County Public Library, Delta, Colorado.
- Mesa County Public Library, Grand Junction, Colorado.
- Montrose County Public Library, Grand Junction, Colorado.
- Gunnison County Library, Gunnison, Colorado.

FOR FURTHER INFORMATION CONTACT: Steve McCall, Bureau of Reclamation, Western Colorado Area Office, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506; telephone (970) 248-0638; facsimile (970) 248-0601; e-mail: smccall@uc.usbr.gov.

SUPPLEMENTARY INFORMATION: The DEIS describes the environmental impacts of alternatives to operate the Aspinall Unit to assist in implementing flow recommendations for endangered fish

provided by the Upper Colorado River Endangered Fish Recovery Program (Recovery Program). Under the direction of the Recovery Program, Aspinall Unit releases were evaluated beginning in 1992. At the completion of the research, the Recovery Program published the *Flow Recommendations to Benefit Endangered Fishes in the Colorado and Gunnison Rivers* (McAda, 2003). The recommendations include spring peak and base flow targets for various hydrologic conditions in the Gunnison River Basin.

The purpose of modifying operations of the Aspinall Unit is to provide sufficient releases of water at times, quantities, and duration necessary to avoid jeopardy to endangered fish species and adverse modification of their designated critical habitat in the lower Gunnison River while maintaining the authorized purposes of the Aspinall Unit.

The Upper Colorado River Basin at one time was inhabited by 14 native fish species, four of which are now endangered. These four fish are the Colorado pikeminnow, razorback sucker, bonytail, and humpback chub. They exist only in the Colorado River Basin. The four fish are endangered because of adverse impacts to their habitat over the last 125 years. The two types of habitat impacts that appear to have had the greatest effect have been water development and introduction of non-native fish (McAda, 2003).

Reclamation is required to comply with the Endangered Species Act (ESA) for operation of its facilities, including the Aspinall Unit. Within the exercise of its discretionary authority, Reclamation must avoid jeopardizing the continued existence of listed species and destroying or adversely modifying designated critical habitat.

Background

The Aspinall Unit, located on the Gunnison River in western Colorado, is an authorized storage unit of the Colorado River Storage Project (CRSP). The Aspinall Unit includes three dams and reservoirs (Blue Mesa, Morrow Point, and Crystal) along a 40-mile reach of the Gunnison River. The Aspinall Unit is one of the four key features of the CRSP intended to develop the water resources of the Upper Colorado River Basin and is operated in accordance with the CRSP Act and applicable Reclamation and other Federal laws.

Purpose and Need for Action

Under the proposed action, the Aspinall Unit will be operated to avoid jeopardizing the continued existence of, and assist in the recovery of, the

endangered fishes. This will help facilitate future water development to proceed in the Upper Colorado River Basin in compliance with applicable laws, compacts, court decrees, and Indian trust responsibilities. The proposed action is needed because Reclamation is required to comply with the Endangered Species Act for the operation of facilities, including the Aspinall Unit. Within the exercise of its discretionary authority, Reclamation must avoid jeopardizing the continued existence of listed species or adversely modifying designated critical habitat.

Proposed Federal Action

Reclamation proposes to operate the Aspinall Unit to avoid jeopardizing the continued existence of downstream endangered fish species while maintaining and continuing to meet all of the project's authorized purposes. Reclamation would implement the proposed action by modifying the operations of the Aspinall Unit, to the extent possible, to help achieve river flows recommended by the Recovery Program. This change in Aspinall Unit operations would assist in conserving endangered fish in the Gunnison and Colorado rivers and would maintain authorized project purposes.

Hearing Process Information: Oral comments at the hearings will be limited to five minutes. The hearing officer may allow any speaker to provide additional oral comments after all persons wishing to comment have been heard. All comments will be formally recorded. Speakers not present when called will lose their privilege in the scheduled order and will be recalled at the end of the scheduled speakers. Speakers are encouraged to provide written versions of their oral comments, and any other additional written materials, for the hearing/administrative record.

Written comments should be received by Reclamation's Western Colorado Area Office using the contact information provided above no later than Friday, April 24, 2009, for inclusion in the hearing/administrative record. Under the NEPA process, written and oral comments, received by the due date, are given the same consideration. Written comments, Reclamation responses, and public hearing statements (oral comments) will be used in the preparation of the final environmental impact statement.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that

your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 15, 2009.

Ann Gold,

Acting Regional Director—UC Region.

[FR Doc. E9-2727 Filed 2-12-09; 8:45 am]

BILLING CODE 4310-MN-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-504]

India: Effects of Tariffs and Nontariff Measures on U.S. Agricultural Exports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on January 13, 2009, of a request from the United States Senate Committee on Finance (Committee) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332-504, India: Effects of Tariffs and Nontariff Measures on U.S. Agricultural Exports.

DATES: *March 24, 2009:* Deadline for filing requests to appear at the public hearing.

April 2, 2009: Deadline for filing prehearing briefs and statements.

April 21, 2009: Public hearing.

April 28, 2009: Deadline for filing posthearing briefs and statements.

June 26, 2009: Deadline for filing all other written submissions.

November 12, 2009: Transmittal of Commission report to the Committee.

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:

Project leader George Serletis (202-205-3315 or george.serletis@usitc.gov) or deputy project leader Brian Allen (202-

205-3034 or brian.allen@usitc.gov) for information specific to this investigation. 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 Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@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: As requested by the Committee, the Commission will conduct an investigation and prepare a report on the effects of tariffs and nontariff measures on U.S. agricultural exports to India. As requested, to the extent possible, the report will include—

(1) An overview of the Indian agricultural market, including recent trends in consumption, imports, and domestic supply;

(2) a description of the principal measures affecting Indian agricultural imports, including tariffs, sanitary and phytosanitary measures, food regulations, packaging and labeling requirements, pricing policies, intellectual property policies, and customs procedures;

(3) information on Indian government regulations, including state regulations, covering agricultural markets and foreign direct investment affecting U.S. agricultural products in India;

(4) an evaluation of the impact of India's food marketing and distribution system, including market structure, transportation infrastructure, and cold-storage capacity, on U.S. agricultural products in the Indian market; and

(5) a quantitative analysis of the economic effects of Indian tariffs, and to the extent possible, nontariff measures on U.S. agricultural exports to India.

The Committee requested that the Commission deliver its report 10 months after receipt of the request letter, or by November 12, 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 Tuesday, April 21, 2009. Requests to appear at the public hearing

should be filed with the Secretary no later than 5:15 p.m., March 24, 2009, in accordance with the requirements in the "Submissions" section below. All prehearing briefs and statements should be filed not later than 5:15 p.m., April 2, 2009; and all posthearing briefs and statements responding to matters raised at the hearing should be filed not later than 5:15 p.m., April 28, 2009. In the event that, as of the close of business on March 24, 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 March 24, 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 all such submissions (other than pre- and post-hearing briefs and statements) should be received not later than 5:15 p.m., June 26, 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 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 "nonconfidential" 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.

In its request letter, the Committee stated that it intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information in the report it sends to the Committee. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

Issued: February 9, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-3079 Filed 2-12-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-625]

In the Matter of Certain Self-Cleaning Litter Boxes and Components Thereof; Notice of Commission Determination To Review a Final Initial Determination In Part; Grant a Motion To Strike; and Set a Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on December 1, 2008, in the above-captioned investigation, and has granted Complainants' motion to strike.

FOR FURTHER INFORMATION CONTACT: Mark B. Rees, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3116. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its

Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 28, 2007, based on the complaint of Applica Consumer Products, Inc. of Miramar, Florida ("Applica") and Waters Research Company of West Dundee, Illinois ("Waters"). 72 FR 73884 (Dec. 28, 2007); 73 FR 13566 (Mar. 13, 2008). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain self-cleaning litter boxes and components thereof by reason of infringement of U.S. Patent No. RE36,847 ("the '847 patent"). The respondents are Lucky Litter, LLC of Chicago, Illinois ("Lucky Litter") and OurPet's Company of Fairport Harbor, Ohio ("OurPet's").

On December 1, 2008, the ALJ issued his final ID, finding that a violation of section 337 has occurred in the importation, sale for importation, or sale after importation of certain self-cleaning litter boxes and components thereof by reason of infringement of claim 33 of the '847 patent. His final ID also included his recommendation on remedy and bonding. Respondents Lucky Litter and OurPet's, complainants Applica and Waters, and the Commission investigative attorney ("IA") filed petitions (or contingent petitions) for review on December 16, 2008. All parties filed responses to the petitions on December 24, 2008. Complainants also filed a motion to strike on December 23, 2008, to which Lucky Litter and the IA filed oppositions on January 5, 2009.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the following issues: the construction of "comb drive" (asserted claims 8, 13, 31-33), "comb drive means" (asserted claims 27, 41-42), "drive means" (asserted claims 24-25), "discharge position adjacent the discharge end wall" (asserted claims 8, 13), "comb * * * coupled to the comb drive" (asserted claims 31-33), and "mode selector switch * * * moveable between a manual operation position * * * and an automatic operation

position" (asserted claim 33); invalidity due to anticipation; invalidity due to obviousness; and direct and contributory infringement.

On review, the Commission requests briefing on the above-listed issues based on the evidentiary record. The Commission is particularly interested in responses to the following questions:

(1) Did the ALJ err in finding that the specification of the '847 patent contains no disavowal that limits the claimed comb drive? If the patentee disavowed certain drives, what is the correct scope of the disavowal? Does it include, for example, worm drives of any configuration, or only the drive disclosed in the Carlisi prior art reference, which has a "worm" along the side of the litter box that turns and thereby drives the rake or comb on its path in the litter box?

(2) What are the differences or similarities in the patent's use of "comb drive" in asserted claim 8, "comb drive means" in asserted claim 27, and "comb drive" in asserted claim 33?

(3) Is there a difference in function between the "guide" wheels and "guide" pins referenced in the specification in connection with figures 1-3 of the '847 patent and the "drive" wheels and "drive" pins referenced in claim 10?

(4) What result should the Commission reach on infringement if it were to find that the '847 patent disavows all worm drives or that it disavows only the Carlisi drive?

(5) What result should the Commission reach on infringement if it were to find that the synonyms for "adjacent" cited in the ID at 143-44 incorrectly narrow the limitation "discharge position adjacent the discharge end wall" in asserted claim 8?

(6) Is the limitation "comb * * * coupled to the comb drive" in asserted claims 31-33 met in QurPet's SmartScoop under a broader construction that includes, as Complainants argue, an "indirect" connection? Should the infringement analysis that follows from the correct construction of this limitation be different in claim 31 than it is in claim 33? Did the ID err in finding claim 33 infringed on the one hand and, on the other, that the same limitation is not met for purposes of claim 31?

(7) How does a finding of disavowal of all worm drives, or the Carlisi drive, impact the consideration of obviousness under section 103 and anticipation under section 102? Do the broader constructions of "discharge position adjacent the discharge end wall" and "comb * * * coupled to the comb

drive" advocated by Complainants impact either validity analysis?

(8) Did the ID err in finding that the Strickland prior art reference does not disclose a "mode selector switch" to one of ordinary skill in the art?

(9) Please describe and analyze the intrinsic evidence of record that is pertinent to the construction of "mode selector switch * * * moveable between a manual operation position * * * and an automatic operation position" of claim 33. Please identify record evidence of whether each accused device contains a "mode selector switch" which is "moveable between a manual operation position * * * and an automatic operation position." In addition, please address the relevance of *Overhead Door Corp. v. Chamberlain Group, Inc.*, 194 F.3d 1261 (Fed. Cir. 1999), to the claim construction, infringement and invalidity analyses of the "mode selector switch" limitation.

The Commission has also granted Complainants' motion to strike the Declaration of Alan J. Cook that was submitted by Lucky Litter along with its petition for review. The declaration and its exhibits are not part of the record on violation in this investigation. References to such information in Lucky Litter's petition for review are also therefore stricken. This action is taken without prejudice to Lucky Litter submitting any information contained in the declaration and exhibits that is relevant to the remedy and bonding issues in this investigation at the appropriate time.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the expiration date of the '847 patent and state the HTSUS number under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than the close of business on February 20, 2009. Reply submissions must be filed no later than the close of business on February 27, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless

the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42-46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42-46).

Issued: February 9, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-3080 Filed 2-12-09; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 05-16]

Lyle E. Craker, Ph.D.; Denial of Application; Change in Effective Date

By Final Order dated January 7, 2009, I denied the application of Lyle E. Craker, PhD (Respondent), to become registered as a bulk manufacturer of marijuana. The Final Order, which was published in the **Federal Register** on January 14, 2009 (74 FR 2101), was to become effective February 13, 2009. On January 30, 2009, Respondent submitted to me a document entitled "Request for Opportunity Under 5 U.S.C. 556(e) to Respond to New Officially Noticed Evidence and Motion for Reconsideration." As that request and motion remain pending before me, the effective date of the Final Order is hereby changed from February 13, 2009 to April 1, 2009.

Dated: February 9, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9-3151 Filed 2-12-09; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF LABOR**Office of the Secretary****Submission for OMB Review:
Comment Request**

February 9, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, Telephone: 202-395-4816/Fax: 202-395-6974 (these are not toll-free numbers), e-mail: OIRA_submission@omb.eop.gov within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Record of Mine Closures, Opening and Reopening of Mines.

OMB Control Number: 1219-0073.

Form Number: None.

Estimated Number of Respondents: 1,453.

Estimated Total Annual Burden Hours: 14,572.

Estimated Total Annual Cost Burden: \$18,221,257.

Affected Public: Business or other for profits (underground and surface coal mines).

Description: The Department's regulations at 30 CFR 75.372, 75.373, 75.1200, 75.1200-1, 75.1201, 75.1202, 75.1202-1, 75.1203, 75.1204, 75.1204-1, 75.1721, 77.1200, 77.1201, 77.1202 contain requirements regarding the preparation and maintenance of accurate and up-to-date mine maps as well as requirements with respect to reporting to MSHA the opening or closing of mines. The information is used by operators of coal mines for effective and safe mine planning and when approaching abandoned underground mines or the mined-out and inaccessible areas of an active underground or surface mine. The abandoned mine or inaccessible areas of an active mine could be flooded with water or contain explosive amounts of methane or harmful gases. If the operator were to mine into such an area, unaware of the hazards, miners could be killed or seriously injured. The requirements to provide MSHA with certified underground mine maps annually, access for inspection of surface mine maps and the filing of mine closure maps provide essential information for MSHA to plan and conduct mandatory inspections and review and approve mandatory mine plans and permits. The required notifications prior to opening new mines and reopening abandoned mines provide information for the same purpose. Accurate and up-to-date mine maps are essential to the engineering plans and safe operation of mines and to the health and safety of the miners, including in mine rescue and/or firefighting situations. In addition, the mine closure maps also provide information essential to protecting public safety in the future land uses of the abandoned mine sites. For additional information, see related notice published at Vol. 73 FR 64985 on October 31, 2008.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines.

OMB Control Number: 1219-0119.

Form Number: None.

Estimated Number of Respondents: 213.

Estimated Total Annual Burden Hours: 42,825.

Estimated Total Annual Cost Burden: \$428,272.

Affected Public: Business or other for profits (underground coal mines).

Description: The information collection requirements contained in the Department's standards at 30 CFR Part 75, Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines, serve to protect miners' health. The records are required to document that essential testing and maintenance of the equipment is done regularly and by qualified persons. The recordkeeping requirements are necessary not only to assist MSHA in determining compliance, but also to provide useful information to mine operators and miners' representatives about the performance of diesel engines and any deterioration or defective condition needing corrective action. For additional information, see related notice published at Vol. 73 FR 64986 on October 31, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9-3065 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR**Office of the Secretary****Submission for OMB Review:
Comment Request**

February 9, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov

Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: DOL_PRA_PUBLIC@dol.gov.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316/Fax: 202-395-6974 (these are not toll-free numbers), e-mail: OIRA_submission@omb.eop.gov within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of an existing OMB Control Number.

Title of Collection: ERISA Technical Release 91-1.

OMB Control Number: 1210-0084.
Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 30.

Total Estimated Annual Burden Hours: 1,827.

Total Estimated Annual Costs Burden: \$25,286.

Description: Employee Retirement Income Security Act of 1974 (ERISA) Technical Release 91-1 alerts the public to amendments to section 101(e) of ERISA that requires a plan to provide advanced notification to the Secretaries of Labor and the Treasury, as well as

participants and beneficiaries, of an intended transfer of excess assets from a defined benefit plan to a retiree health account. For additional information, see related notice published at Vol. 73 FR 70677 on November 21, 2008.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of an existing OMB Control Number.

Title of Collection: Disclosures by Insurers to General Account Policyholders.

OMB Control Number: 1210-0114.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 104.

Total Estimated Annual Burden Hours: 408,948.

Total Estimated Annual Costs Burden: \$32,235.

Description: Section 1460 of the Small Business Job Protection Act of 1996 (Pub. L. 104-188) added a new Section 401(c) to ERISA to establish requirements for "Transition Policies" issued before December 31, 1998, to employee benefit plans, under which plan assets are held in the insurer's general account. The regulation requires financial information to be provided to the plan policyholder when the policy is first issued, annually, and upon request. For additional information, see related notice published at Vol. 73 FR 70676 on November 21, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9-3110 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,380]

Alcoa, Inc., U.S. Primary Metals Division, Including On-Site Leased Workers From Advance Electric, Applied, Bramtex, Prince Foods, Concentra Medical, Fluor, Hagameyer, T&K, Veolia, WSI, Zachary, GCA Services, RCI, Commercial Contracting, Southern Global, Mine Services, Crocker, Vescom, Aramark, Tri State, Magnum Engineering Rockdale, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and

Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 3, 2008, applicable to workers of Alcoa, Inc., U.S. Primary Metals Division, Rockdale, Texas. The notice was published in the **Federal Register** on December 18, 2008 (73 FR 77067).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of aluminum.

New information shows that workers leased from Advance Electric, Applied, Bramtex, Prince Foods, Concentra Medical, Fluor, Hagameyer, T&K, Veolia, WSI, Zachary, GCA Services, RCI, Commercial Contracting, Southern Global, Mine Services, Crocker, Vescom, Aramark, Tri State, and Magnum Engineering were employed on-site at the Rockdale, Texas location of Alcoa, Inc., U.S. Primary Metals Division. The Department has determined that these workers were sufficiently under the control of Alcoa, Inc., U.S. Primary Metals Division to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from the above mentioned firms working on-site at the Rockdale, Texas location of the subject firm.

The intent of the Department's certification is to include all workers employed at Alcoa, Inc., U.S. Primary Metals Division, Rockdale, Texas, who were adversely affected by a shift in production of aluminum to Canada.

The amended notice applicable to TA-W-64,380 is hereby issued as follows:

All workers of Alcoa, Inc., U.S. Primary Metals Division, including on-site leased workers of Advance Electric, Applied, Bramtex, Prince Foods, Concentra Medical, Fluor, Hagameyer, T&K, Veolia, WSI, Zachary, GCA Services, RCI, Commercial Contracting, Southern Global, Mine Services, Crocker, Vescom, Aramark, Tri State and Magnum Engineering, Rockdale, Texas, who became totally or partially separated from employment on or after November 6, 2007 through December 3, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of January 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3036 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-63,305]

Dana Holding Corporation, Heavy Vehicle Division Including On-Site Workers Being Paid Out of Kalamazoo, MI, Glasgow, KY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1074 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on May 30, 2008, applicable to workers of Dana Holding Corporation, Heavy Vehicle Division, Glasgow, Kentucky. The notice was published in the **Federal Register** on June 16, 2008 (73 FR 34043). The subject workers produce gears, pinions, and differential gearings, and are not separately identifiable by articles produced.

The Department reviewed the certification after receiving a Trade Adjustment Assistance/Alternative Trade Adjustment Assistance petition filed on behalf of workers of Dana Heavy Vehicles System Group, Glasgow, Kentucky (TA-W-64,925).

The review showed that the workers covered by TA-W-64,925 are working at the subject firm but are being paid out of the firm's Kalamazoo, Michigan payroll. Therefore, the Department determines that the workers covered by TA-W-64,925 are members of the Glasgow, Kentucky group.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Dana Holding Corporation, Heavy Vehicle Division, Glasgow, Kentucky, who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA-W-63,305 is hereby issued as follows:

All workers of Dana Holding Corporation, Heavy Vehicle Division, Glasgow, Kentucky, including on-site workers being paid out of Kalamazoo, Michigan, who became totally or partially separated from employment on or after April 24, 2007, through May 30, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of February 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3032 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,217; TA-W-64,217A]

ICG Castings, Inc., Including On-Site Leased Workers From Beacon Services, Dowagiac, MI; ICG Berrien, Inc., Including On-Site Leased Workers From Beacon Services, Bridgman, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 3, 2008, applicable to workers of ICG Castings, Inc., Dowagiac, Michigan and ICG Berrien, Inc., Bridgman, Michigan. The notice was published in the **Federal Register** on December 18, 2008 (73 FR 77067).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of aluminum castings. The workers are separately identifiable by location, but not by product.

New information shows that workers leased from Beacon Services were employed on-site at the Dowagiac, Michigan location of ICG Castings, Inc., and the Bridgman, Michigan location of ICG Berrien, Inc. The Department has determined that these workers were sufficiently under the control of ICG Castings, Inc., and ICG Berrien, Inc. to be considered leased workers.

Based on these findings, the Department is amending this

certification to include workers leased from Beacon Services working on-site at the Dowagiac, Michigan location of ICG Castings, Inc. and the Bridgman, Michigan location of ICG Berrien, Inc.

The intent of the Department's certification is to include all workers employed at ICG Castings, Inc., Dowagiac, Michigan and ICG Berrien, Inc., Bridgman, Michigan who were adversely affected by a shift in production of aluminum castings to Canada.

The amended notice applicable to TA-W-64,217 and TA-W-64,217A are hereby issued as follows:

All workers of ICG and Castings, Inc., including on-site leased workers of Beacon Services, Dowagiac, Michigan (TA-W-64,217) and ICG Berrien, Inc., including on-site leased workers of Beacon Services, Bridgman, Michigan (TA-W-64,217A), who became totally or partially separated from employment on or after September 15, 2007 through December 3, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of January 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3035 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-63,253]

Intrapac, Inc., Montebello Packaging, Inc., Including On-Site Leased Workers From Adecco and Adams and Garth, Harrisonburg, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1074 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on June 6, 2008, applicable to workers of IntraPac, Inc., including on-site leased workers from Adecco and Adams and Garth, Harrisonburg, Virginia. The notice was published in the **Federal Register** on June 20, 2008 (73 FR 35164).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of collapsible aluminum and tin tubes and medical dose inhalers and are not separately identifiable by a specific product.

New information shows that on July 31, 2008, Montebello Packaging, Inc. purchased the aluminum portion and assets of the Harrisonburg, Virginia location of IntraPac, Inc. Production of tin tubes and medical dose inhalers will continue at the subject firm. Workers separated from employment at the Harrisonburg, Virginia location of the subject firm had their wages reported under two separate unemployment insurance (UI) tax accounts—Montebello Packaging, Inc. and IntraPac, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of IntraPac, Inc., Montebello Packaging, Inc., Harrisonburg, Virginia, who were adversely affected by increased imports following a shift in production to Venezuela, India and Czech Republic.

The amended notice applicable to TA-W-63,253 is hereby issued as follows:

All workers of IntraPac, Inc., Montebello Packaging, Inc., including on-site leased workers from Adecco and Adams and Garth, Harrisonburg, Virginia, who became totally or partially separated from employment on or after April 25, 2007, through June 6, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of January 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3031 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,116]

Woodgrain Millwork, Inc., Fruitland Mill Division, Fruitland Prefinish Division, Fruitland, ID; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 20, 2008, applicable to workers and former workers of Woodgrain Millwork, Inc., Fruitland Mill Division, Fruitland, Idaho. The Notice of determination was published in the *Federal Register* on November 10, 2008 (73 FR 66676). Workers produce door components and are not separately identifiable by articles produced.

At the request of a subject firm official, the Department reviewed the certification for workers of the subject firm. The review shows that the petition was filed by a company official on behalf of workers of Woodgrain Millwork, Inc., Fruitland, Idaho.

New information provided by the company official show that the subject facility consisted of two divisions, Millwork Division and Prefinish Division, and that the workers are not separately identifiable by article produced or Division. The Millwork Division milled the component pieces, and then the Prefinish Division treated the milled pieces before they were sent to the customer.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Woodgrain Millwork, Inc., Fruitland, Idaho, who are secondarily-affected by increased imports.

The amended notice applicable to TA-W-64,116 is hereby issued as follows:

All workers of Woodgrain Millwork, Inc., Fruitland, Idaho, Fruitland Millwork Division and Fruitland Prefinish Division, Fruitland, Idaho, who became totally or partially separated from employment on or after September 16, 2007, through October 20, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act

of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of January 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3034 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-63,904]

Nestaway, LLC, Garfield Heights, OH; Notice of Negative Determination on Reconsideration

On December 10, 2008, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the *Federal Register* on December 18, 2008 (73 FR 77064).

The initial investigation resulted in a negative determination based on the finding that imports of dishwasher rack components did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred.

The petitioner alleged that the workers of the subject firm manufactured not only dishwasher rack components but also vending machine trays and surgical baskets for specific customers. The petitioner provided the names of these customers.

A company official was contacted to verify the above allegation. The company official stated that the subject firm did not manufacture vending machine trays and surgical baskets during the relevant period (since August 19, 2007, twelve months prior to the date of the petition).

The company official confirmed that during the initial investigation, the subject firm supplied the Department with a complete list of all customers, who purchased products from the subject firm in 2006, 2007 and January through August 2008. The investigation revealed a major declining customer, representing nearly all of the subject firm's total sales, did not import wire dishrack components and service racks during 2006, 2007 and during the January through August 2008 period.

The petitioner also alleged that the parent company of Nestaway and several subject firm's customers had been certified eligible for TAA.

Whether the subject firm's customers are under current TAA certification is relevant to a determination of whether subject firm workers are eligible for TAA based on the subject firm being a secondary upstream supplier of a trade certified primary firm. For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must produce component parts of an article that was the basis for a TAA certification of a customer during the relevant period.

The Department conducted further review and determined that none of the customers of the subject firm was certified eligible for TAA during the relevant period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Nestaway, LLC, Garfield Heights, Ohio.

Signed at Washington, DC, this 30th day of January 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3033 Filed 2-12-09; 8:45 am]
BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-60,086]

Ford Motor Company Product Development and Engineering Center Including On-Site Leased Workers From Roush Management, LLC, Dearborn, MI; Amended Notice of Revised Determination On Reconsideration

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Notice of Revised Determination on Reconsideration on August 8, 2007. The notice was published in the *Federal Register* on August 20, 2007 (72 FR 46515-46516).

At the request of a petitioner, the Department reviewed the Notice of Revised Determination on Reconsideration for workers of the subject firm. The workers are in direct support of production of numerous production assembly plants of Ford Motor Company. All of these production facilities were certified eligible for

adjustment assistance during April through December 2006.

New information shows that workers leased workers from Roush Management LLC were employed on-site at the Dearborn, Michigan location of Ford Motor Company, Product Development Center. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this revised determination to include workers leased from Roush Management LLC working on-site at the Dearborn, Michigan location of the subject firm.

The intent of the Department's certification is to include all workers employed at Ford Motor Company, Product Development and Engineering Center, Dearborn, Michigan who were adversely affected by increased imports.

The amended notice applicable to TA-W-60,086 is hereby issued as follows:

All workers of Ford Motor Company, Product Development and Engineering Center, including on-site leased workers from Roush Management LLC, Dearborn, Michigan, who became totally or partially separated from employment on or after September 14, 2005, through August 8, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of January 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3030 Filed 2-12-09; 8:45 am]
BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,818]

Concept Packaging Group, Griffin, GA; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 7, 2009 in response to a petition filed by a company official on behalf of workers of Concept Packaging Group, Griffin, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 2nd day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3037 Filed 2-12-09; 8:45 am]
BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,939]

Farmtrac North America, LLC, Tarboro, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 22, 2009 in response to a worker petition filed by the Receivership Attorney on behalf of workers of Farmtrac North America, LLC, Tarboro, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 4th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3038 Filed 2-12-09; 8:45 am]
BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,984]

Gulistan Carpet, Turnersburg Plant, Turnersburg, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 26, 2009 in response to a worker petition filed by a company official on behalf of workers of Gulistan Carpet, Turnersburg Plant, Turnersburg, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 4th day of February 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-3040 Filed 2-12-09; 8:45 am]
BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-64,968]

The Jim Hamer Company, Kenova, WV;
Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 22, 2009 in response to a worker petition filed by the company official on behalf of workers of The Jim Hamer Company, Kenova, West Virginia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 2nd day of February 2009.

Richard Church,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E9-3039 Filed 2-12-09; 8:45 am]

BILLING CODE 4510-FN-P

THE NATIONAL FOUNDATION ON THE
ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Michael P. McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and

commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* March 2, 2009.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Humanities Initiatives (at Historically Black Colleges and Universities, High Hispanic Enrollment Institutions, and/or Tribal Colleges and Universities), submitted to the Division of Education Programs, at the January 15, 2009 deadline.

2. *Date:* March 4, 2009.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Humanities Initiatives (at Historically Black Colleges and Universities, High Hispanic Enrollment Institutions, and/or Tribal Colleges and Universities), submitted to the Division of Education Programs, at the January 15, 2009 deadline.

3. *Date:* March 20, 2009.

Time: 8:30 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for National Digital Newspaper Program (NDNP), submitted to the Division of Preservation and Access, at the November 4, 2008 deadline.

Michael P. McDonald,

Advisory Committee Management Officer.

[FR Doc. E9-3068 Filed 2-12-09; 8:45 am]

BILLING CODE 7536-01-P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in
Science and Engineering (1173);
Notice of Meeting

Correction

The National Science Foundation published a document in the **Federal Register** of January 30, 2009 announcing the Committee on Equal Opportunities in Science and Engineering meeting in FR Doc. fr30ja09-94, on page 5686. Two items have been added to the Presentations and Discussion for Friday, February 20. The revised agenda is:

Friday, February 20, 2009

*Opening Statement by the CEOSE Chair:
Presentations and Discussions:*

- A Science of Broadening Participation.
- A Report on the Series of Outreach Meetings on the Impact of the Suppression of Small Data Cells in the Survey of Earned Doctorates (SED) Reports.
- An Update on the Next Steps in Providing Race, Ethnicity and Gender (REG) Data from the Survey of Earned Doctorates (SED).
- Reports by CEOSE Liaisons to Advisory Committees of the National Science Foundation.
- Discussion: The CEOSE Path Forward.
- Completion of Unfinished Business.

Contact Person: Dr. Margaret E.M. Tolbert, Senior Advisor and CEOSE Executive Liaison, Office of Integrative Activities, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 *Telephone Numbers:* (703) 292-4216, 703-292-8040 *mtolbert@nsf.gov*

Dated: February 10, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9-3153 Filed 2-12-09; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials
Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463 as amended), the National Science Foundation announces the following meeting:

Name: Site Visit review of the Materials Research Science and Engineering Center (MRSEC) at the University of California at Santa Barbara (UCSB), Santa Barbara, CA (DMR) #1203.

Dates & Times:

February 22, 2009; 5:30 p.m.-9 p.m.

February 23, 2009; 8 a.m.-9 p.m.

February 24, 2009; 7:30 a.m.-2:30 p.m.

Place: University of California at Santa Barbara, Santa Barbara, CA.

Type of Meeting: Part-open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292-4914.

Purpose of Meeting: To provide advice and recommendations concerning further support of the MRSEC at the University of California at Santa Barbara.

Agenda:

Sunday, February 22, 2009

5:30 p.m.–6:30 p.m. Closed—Executive Session.

6:30 p.m.–9 p.m. Open—Review of UCSB MRSEC.

Monday, February 23, 2009

8 a.m.–5 p.m. Open—Review of the UCSB MRSEC.

5 p.m.–6:45 p.m. Closed—Executive Session.

6:45 p.m.–9 p.m. Open—Dinner.

Tuesday, February 24, 2009

7:30 a.m.–2:30 p.m. Closed—Executive Session, Draft and Review Report.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 10, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–3100 Filed 2–12–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285;NRC–2008–0670]

Omaha Public Power District, Fort Calhoun Station, Unit No. 1.; Exemption

1.0 Background

Omaha Power Public District (OPPD, the licensee) is the holder of Renewed Facility Operating License No. DPR–40, which authorizes operation of the Fort Calhoun Station (FCS), Unit No. 1. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a Combustion Engineering pressurized light-water reactor located in Washington County, Nebraska.

2.0 Request/Action

FCS, Unit No. 1 was licensed to operate prior to January 1, 1979. As such, the licensee's Fire Protection Program must satisfy the established fire protection features of Title 10, "Energy," of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," per 10 CFR 50.48, "Fire protection," Section (b), regulatory requirements.

By letter dated February 4, 2008 (Agencywide Documents Access and Management System (ADAMS)

Accession No. ML080360106), OPPD, on behalf of FCS, Unit No. 1, requested an exemption from the provisions of 10 CFR Part 50, Appendix R, Section III.G.1.b (III.G.1.b), for the 72-hour requirement to provide repair procedures and materials for cold shutdown capability for redundant cold shutdown components.

The proposed exemption request addresses the power and control cables for the four raw water pumps that are routed from the auxiliary building through outside cable pull boxes 128T and 129T into the underground duct bank and manhole vault numbers 5 and 31 into the intake structure building.

The intake structure building at FCS provides river water to various safety and non-safety-related components throughout the plant. This building is separate from the main body of the plant and is located on the riverbank to the east of the turbine building. Major components located in the intake structure building are three circulating water pumps, four safety-related raw water pumps, and two fire pumps. The redundant safety-related raw water pumps, necessary for cold shutdown functions only, are located in a common fire area in the intake structure building, Fire Area 31.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. One of these special circumstances, described in 10 CFR 50.12(a)(2)(ii), is when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule.

By letter dated July 3, 1985 (ADAMS Legacy Library Accession No. 850724390), the NRC granted an exemption from the technical requirements of Section III.G.2 of Appendix R to 10 CFR Part 50, for Fire Area 31 (intake structure building) and for the pull box area of the auxiliary building. However, cables in the duct bank and manhole vault numbers 5 and 31 that are routed between the pull boxes and intake structure were not discussed in the OPPD August 30, 1983, exemption request (ADAMS Legacy Library Accession No. 830909011).

The OPPD letter dated February 4, 2008, clarified that the NRC July 3, 1985, safety evaluation report (SER) incorrectly referenced Section III.G.2 and subsequently provided exemption from 10 CFR Part 50, Section III.G. Specifically, the OPPD letter of February 4, 2008, states that "This exemption request thereby provides notification and clarification that the original SER and exemption should have referenced 10 CFR 50, Appendix R, Section III.G.1.b * * *". Therefore, the NRC staff evaluation in this SER supersedes the reference "Section III.G.2" used in the NRC SER dated July 3, 1985, for Fire Area 31 (intake structure building and pull boxes 128T and 129T outside the auxiliary building). OPPD has identified the duct bank and manhole vault numbers 5 and 31 as part of the Fire Area 31; therefore, the NRC staff evaluation in this SER includes exemption from 10 CFR Part 50, Appendix R, Section III.G.1.b for duct bank and manhole vault numbers 5 and 31.

OPPD justified the exemption in duct bank and manhole vault numbers 5 and 31 based on the limited combustible loading (other than cable and cable insulation) and limited ignition sources. OPPD has determined that there is no credible threat from a fire occurring in the area of the cable duct bank or manhole vaults that would disable all trains of raw water and prevent the safe shutdown of the plant. The raw water system will remain available to achieve post-fire cold shutdown within 72 hours.

The NRC staff's review of the February 4, 2008, OPPD proposed license exemption request identified areas in which additional information was necessary to complete the review. By e-mail dated September 17, 2008 (ADAMS Accession No. ML083360264), the NRC staff sent a request for additional information (RAI) to OPPD. OPPD responded by letter dated October 13, 2008 (ADAMS Accession No. ML082980018), as discussed below.

The NRC staff requested the licensee to provide a description of the defense-in-depth features in the underground duct bank and manhole vault numbers 5 and 31. The licensee responded that there is no ignition source in the duct bank or manhole vaults, other than the remote possibility of a self-ignited cable fault. The duct bank and manhole vaults are classified as a confined space and, therefore, entry is not allowed without appropriate permits and controls that minimize the potential for introducing transient ignition or combustible materials. Further, hot work performed in the duct bank and manhole vaults is

conducted in accordance with Standing Order (SO)-M-9 and FCS Guidance (FCSG)-15-35, which require the protection of electrical cables located within 35 feet of the welding or cutting location. The licensee indicated in its response that there are no means of automatic fire detection or suppression in the duct bank and manhole vaults. However, if a fire did occur, operators in the control room would have indications of equipment faults (e.g., tripping of operating pumps, off-normal valve indication lights, etc.) and would rapidly begin to investigate the cause and location of the fault. The duct bank and manhole vaults are located inside the protected area in close proximity to the power block. Should a fire occur as a result of hot work in the duct bank and/or manhole vaults, the craft or fire watch would immediately contact the control room, and the fire brigade would be dispatched to extinguish the fire. OPPD has indicated that prior to beginning hot work, form FC-18, "Hot Work Permit," is completed and a copy given to the Operations Control Center (OCC). Form FC-18 contains numerous steps to prevent, detect, and respond to a fire. The steps include protecting areas such as electrical cabling located within 35 feet of the welding or cutting location. A trained individual is designated fire watch both during and for 30 minutes after the hot work is completed. The fire watch monitors the work area, adjacent areas, and above and below the work area. The fire watch is trained to immediately report fires to the control room and is equipped with a fire extinguisher to extinguish small fires, if possible.

The NRC staff requested the licensee to clarify if, in FCS, Unit No. 1 abnormal operating procedures (AOPs), post-fire safe shutdown analysis assumes all equipment available during a postulated fire. In addition, the NRC staff requested that the licensee confirm that the post-fire safe shutdown analysis emergency operating procedures (EOPs) do not rely solely on "feed and bleed" as the means of protecting the core. The licensee responded that the FCS, Unit No. 1, post-fire safe shutdown analysis (Engineering Analysis (EA)-FC-89-055) assumes all equipment credited for a given fire area is available during a postulated fire. FCS does not rely solely on once-through cooling (or "feed and bleed") as a means of heat removal to protect the reactor core in a post-fire safe shutdown scenario. Options for reactor coolant system (RCS) heat removal in FCS EOP-20, "Functional Recovery Procedure," include: (1) RCS and core heat removal via steam

generators with no safety injection, (2) RCS and core heat removal via steam generators with safety injection operating, (3) shutdown cooling operation, and (4) feed and bleed (or once-through cooling). Although feed and bleed is one of the EOP-20 options, it is the least desirable and would only be utilized if other means are unavailable or have failed for the given plant conditions. FCS, Unit No. 1, does not have a specific EOP for post-fire safe shutdown. For a fire within the protected area, FCS implements AOP-06, "Fire Emergency." Based on the extent of fire damage, location of the fire and plant response to the fire, control room operators have the option to implement EOPs to achieve safe shutdown conditions.

The NRC staff requested the licensee to clarify and confirm that the types of combustibles have not changed and total combustible loading in the intake structure building has not increased, and that there is no change in active and passive fire protection features as last described in the OPPD license exemption request dated August 30, 1983. Further, the NRC staff requested that, if there has been a change in the types of combustibles or there is an increase in combustible load or change in fire protection features in the intake structure building, then OPPD should provide details and a basis for why the change remains acceptable. In addition, the NRC staff asked the licensee to confirm that the pyrocrete enclosure is in place to protect the cables for raw water pumps AC-10A and AC-10B from fire in the intake structure building. The licensee responded that the type of combustible material in the duct bank and manhole vaults is limited to cable insulation. This has not changed since original plant construction. Any change in the total combustible loading since August 30, 1983, for the duct bank, manhole vaults, and/or intake structure would have been evaluated for impact in the combustible loading calculation (FC05814), which is the controlled design calculation that maintains an accounting of combustible load for fire areas at FCS, Unit No. 1. Further, the licensee has indicated that the review of previous revisions of this calculation confirms that total combustible loading has remained classified as low and no significant changes in total loading have occurred. Therefore, the basis for this reference remains valid. The pyrocrete enclosure remains in place to protect cables associated with pumps AC-10A and AC-10B from a fire in the intake structure. This enclosure is inspected by

a fire barrier surveillance test on an 18-month interval.

Based on the above, the consequences of postulated accidents are not increased, because there is no credible fire hazard in the area of the cable duct bank or manhole vaults that would disable all the raw water pumps and prevent the cold shutdown capability. Furthermore, if all raw water pumps are lost, due to any condition, the AOP directs the operator to trip the reactor and enter emergency procedures based on observed plant conditions. Therefore, there is no undue risk to public health and safety, since neither the probability nor the consequences have been increased.

On the basis of its review and evaluation of the information provided in the licensee's exemption request and response to NRC staff RAI questions, the NRC staff concludes that OPPD's request for exemption from the technical requirements of Section III.G.1.b of Appendix R to 10 CFR Part 50 has provided a thorough description of the proposed change and an adequate safety assessment which address the issue.

Authorized by Law

This exemption would allow FCS, Unit No. 1, not to provide fire protection features for structures, systems, and components (SSCs) important to achieve and maintain cold shutdown or having the capability of repairing these components within 72 hours (i.e., technical requirements of 10 CFR Part 50, Appendix R, Section III.G.1.b). As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

One of the underlying purposes of 10 CFR Part 50, Appendix R, Section III.G.1.b, is to protect safe shutdown capability. Section III.G.1.b contains a requirement for performing repairs for maintaining plant cold shutdown following a fire in any one of certain plant areas. This is done by ensuring that systems necessary to achieve and maintain cold shutdown conditions from either the control room or emergency control stations(s) can be repaired within 72 hours. Based on the above, no new accident precursors are created by granting exemption for the 72-hour requirement to provide repair

procedures and materials for cold shutdown components, thus, the probability of postulated accidents is not increased. Also based on the above the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety (since risk is probability x consequences).

Consistent With Common Defense and Security

The proposed exemption would allow FCS, Unit No. 1, to not meet the requirements of 10 CFR Part 50, Appendix R, Section III.G.1.b for certain specified areas; thus, procedures and materials for the repair of redundant cold shutdown components within 72 hours in those areas would not be needed. This change to the operation of the plant has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Part of the underlying purpose of 10 CFR Part 50, Appendix R, Section III.G, is to assure safe shutdown capability. OPPD states that, in the unlikely event all raw water pumps are lost for any reason, OPPD maintains an AOP for loss of the raw water system. If all raw water pumps are lost, due to any condition, the AOP directs the operators to trip the reactor and enter EOPs based on observed plant condition. Since these procedures help to assure safe shutdown capability, strict application of the requirements of 10 CFR Part 50, Appendix R, Section III.G.1.b, is not necessary to achieve the underlying purpose of the rule and the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption exist.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants OPPD an exemption from the requirements of Section III.G.1.b of 10 CFR Part 50, Appendix R, which is required by 10 CFR 50.48(b) for plants that were licensed to operate before January 1, 1979, to FCS, Unit No. 1.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (73 FR 80441; December 31, 2008).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of February 2009.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9-3143 Filed 2-12-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS), Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on March 4, 2009, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, March 4, 2009—8:30 a.m.—5 p.m.

The Subcommittee will discuss the Indian Point License Renewal application and the associated Safety Evaluation Report (SER) with Open Items prepared by the staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Entergy, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Peter Wen (telephone 301/415-2832) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268-58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons

planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: February 5, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9-3083 Filed 2-12-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment (PRA) will hold a meeting on March 3, 2009, Room T-2-B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, March 3, 2009—1 p.m. until the conclusion of business.

The Subcommittee will review draft Final Regulatory Guide 5.73, "Fatigue Management for Nuclear Power Plant Personnel." The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee. Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Harold VanderMolen (Telephone: 301-415-6236) 5 days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (72 FR 54695).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8:30 a.m., and 4:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: February 6, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory
Committee on Reactor Safeguards.

[FR Doc. E9-3160 Filed 2-12-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear
Regulatory Commission.

DATE: Week of February 16, 2009.

PLACE: Commissioners' Conference
Room, 11555 Rockville Pike, Rockville,
MD.

STATUS: Public and closed.

ADDITIONAL ITEMS TO BE CONSIDERED:

Week of February 16, 2009

Tuesday, February 17, 2009

1:25 p.m. Affirmation Session (Public
Meeting) (Tentative).

- a. Final Rule: Consideration of
Aircraft Impacts for New Nuclear
Power Reactors (RIN 3150-AI19)
(Tentative).
- b. Final Rule: 10 CFR Part 63,
"Implementation of a Dose
Standard After 10,000 Years" (RIN
3150-AH68) (Tentative).
- c. Tennessee Valley Authority
(Bellefonte Nuclear Power Plant
Units 3 and 4), LBP-08-16 (Ruling
on Standing, Hearing Petition
Timeliness, and Contention
Admissibility) (Sept. 12, 2008)
(Tentative).

* * * * *

* The schedule for Commission
meetings is subject to change on short
notice. To verify the status of meetings,
call (recording)—(301) 415-1292.
Contact person for more information:
Rochelle Baval, (301) 415-1651.

* * * * *

The NRC Commission Meeting
Schedule can be found on the Internet
at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

* * * * *

The NRC provides reasonable
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NRC's Disability Program Coordinator,
Rohn Brown, at 301-492-2279, TDD:
301-415-2100, or by e-mail at
rohn.brown@nrc.gov. Determinations on
requests for reasonable accommodation
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* * * * *

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receiving this Commission meeting
schedule electronically, please send an
electronic message to
darlene.wright@nrc.gov.

Dated: February 10, 2009.

Rochelle C. Baval,

Office of the Secretary.

[FR Doc. E9-3278 Filed 2-11-09; 4:15 pm]

BILLING CODE 7590-01-P

RAILROAD RETIREMENT BOARD

Proposed Data Collection(s) Available for Public Comment and Recommendations

SUMMARY: In accordance with the
requirement of Section 3506(c)(2)(A) of
the Paperwork Reduction Act of 1995
which provides opportunity for public
comment on new or revised data
collections, the Railroad Retirement
Board (RRB) will publish periodic
summaries of proposed data collections.

Comments are invited on: (a) Whether
the proposed information collections are
necessary for the proper performance of
the functions of the agency, including
whether the information has practical
utility; (b) the accuracy of the RRB's

estimate of the burden for the collection
of the information; (c) ways to enhance
the quality, utility, and clarity of the
information to be collected; and (d)
ways to minimize the burden related to
the collection of information on
respondents, including the use of
automated collection techniques or
other forms of information technology.

1. Title and Purpose of Information Collection

*Application for Survivor Death Benefits;
OMB 3220-0031*

Under Section 6 of the Railroad
Retirement Act (RRA), lump-sum death
benefits are payable to surviving widow
and widowers, children and certain
other dependents. Lump-sum death
benefits are payable after the death of a
railroad employee only if there are no
qualified survivors of the employee
immediately eligible for annuities. With
the exception of the residual death
benefit, eligibility for survivor benefits
depends on whether the employee was
"insured" under the RRA at the time of
death. If a deceased employee was not
so insured, jurisdiction of any survivor
benefits payable is transferred to the
Social Security Administration and
survivor benefits are paid by that agency
instead of the RRB. The collection
obtains the information required by the
RRB to determine entitlement to and
amount of the survivor death benefits
applied for.

The RRB currently utilizes Form(s)
AA-11a (*Designation for Change of
Beneficiary for Residual Lump-Sum*),
AA-21cert, (*Application Summary and
Certification*), AA-21 (*Application for
Lump-Sum Death Payment and
Annuities Unpaid at Death*), G-131
(*Authorization of Payment and Release
of All Claims to a Death Benefit or
Accrued Annuity Payment*), and G-273a
(*Funeral Director's Statement of Burial
Charges*), to obtain the necessary
information. One response is requested
of each respondent. Completion is
required to obtain benefits.

The RRB proposes no changes to any
of the forms in the information
collection.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form #(s)	Annual responses	Time (min)	Burden (hrs)
AA-11a	200	10	33
AA-21cert (with assistance)	5,400	20	1,800
AA-21 manual (without assistance)	300	40	200
G-131	600	5	50
G-273a	5,000	10	833

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

[The estimated annual respondent burden is as follows]

Form #(s)	Annual responses	Time (min)	Burden (hrs)
Total	11,500	2,916

2. Title and Purpose of Information Collection*Request for Medicare Payment; OMB 3220-0131*

Under Section 7(d) of the Railroad Retirement Act, the RRB administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed by Palmetto GBA, the Medicare carrier for railroad retirement beneficiaries, to pay claims for payments under Part B of the Medicare program. Authority for collecting the information is prescribed in 42 CFR 424.32.

The RRB currently utilizes Forms G-740S, Patient's Request for Medicare Payment, (along with Centers for Medicare and Medicaid Services Form CMS-1500) to secure the information necessary to pay Part B Medicare Claims. The RRB proposes minor non-burden impacting editorial changes to RRB Form G-740S. The completion time for Form G-740S is estimated at 15 minutes. The RRB estimates that approximately 100 Form G-740S's are received annually. Completion is required to obtain a benefit. One response is completed for each claim.

3. Title and Purpose of Information Collection*Statement of Claimant or Other Person; OMB 3220-0183*

To support an application for an annuity under Section 2 of the Railroad Retirement Act (RRA) or for unemployment benefits under Section 2 of the Railroad Unemployment Insurance Act (RUIA), pertinent information and proofs must be furnished for the RRB to determine benefit entitlement. Circumstances may require an applicant or other person(s) having knowledge of facts relevant to the applicant's eligibility for an annuity or benefits to provide written statements supplementing or changing statements previously provided by the applicant. Under the railroad retirement program these statements may relate to changes in annuity beginning date(s), dates for marriage(s), birth(s), prior railroad or non-railroad employment, an applicant's request for reconsideration of an unfavorable RRB eligibility

determination for an annuity or various other matters. The statements may also be used by the RRB to secure a variety of information needed to determine eligibility to unemployment and sickness benefits. Procedures related to providing information needed for RRA annuity or RUIA benefit eligibility determinations are prescribed in 20 CFR 217 and 320 respectively. The RRB utilizes Form G-93, *Statement of Claimant or Other Person* to obtain the supplemental or corrective information from applicants or other persons needed to determine applicant eligibility for an RRA annuity or RUIA benefits.

The RRB proposes no changes to Form G-93. The completion time for Form G-93 is estimated at 15 minutes per response. The RRB estimates that approximately 900 Form G-93's are received annually. Completion is voluntary. One response is requested of each respondent.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363 or send an e-mail request to Charles.Mierzwa@RRB.GOV. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or send an e-mail to Ronald.Hodapp@RRB.GOV. Written comments should be received within 60 days of this notice.

Charles Mierzwa,
Clearance Officer.

[FR Doc. E9-3086 Filed 2-12-09; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION**Proposed Collection; Comment Request***Upon Written Request, Copies Available*

From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Extension:

Rule 15c2-8, OMB Control No. 3235-0481,

SEC File No. 270-421.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 15c2-8 (17 CFR 240.15c2-8)—Delivery of Prospectus

Rule 15c2-8 of the Securities Exchange Act of 1934 ("Exchange Act") requires broker-dealers to deliver preliminary and/or final prospectuses to certain people under certain circumstances. In connection with securities offerings generally, including initial public offerings (IPOs), the rule requires broker-dealers to take reasonable steps to distribute copies of the preliminary or final prospectus to anyone who makes a written request, as well as any broker-dealer who is expected to solicit purchases of the security and who makes a request. In connection with IPOs, the rule requires a broker-dealer to send a copy of the preliminary prospectus to any person who is expected to receive a confirmation of sale (generally, this means any person who is expected actually to purchase the security in the offering) at least 48 hours prior to the sending of such confirmation. This requirement is sometimes referred to as the "48 hour rule."

Additionally, managing underwriters are required to take reasonable steps to ensure that all broker-dealers participating in the distribution of or trading in the security have sufficient copies of the preliminary or final prospectus, as requested by them, to enable such broker-dealer to satisfy their respective prospectus delivery obligations pursuant to Rule 15c2-8, as well as Section 5 of the Securities Act of 1933.

Rule 15c2-8 implicitly requires that broker-dealers collect information, as such collection facilitates compliance with the rule. There is no requirement to submit information collected to the Commission. In order to comply with

the rule, broker-dealers participating in a securities offering must keep accurate records of persons who have indicated interest in an IPO or requested a prospectus, so that they know to whom they must send a prospectus.

The Commission estimates that broker-dealers will spend a total of 78,800 hours complying with the collection of information required by the rule. The Commission estimates that the total number of responses required by the rule is 7,764. The Commission estimates that the total annualized cost burden (copying and postage costs) is \$157,600,000.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: PRA_Mailbox@sec.gov. Comments must be submitted within 60 days of this notice.

Dated: February 9, 2009.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-3097 Filed 2-12-09; 8:45 am]
BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

The Jockey Club, Inc., Juina Mining Corp., Inc. (n/k/a AC Energy, Inc.), Jumbosports, Inc., Just Like Home, Inc., and Just Toys, Inc. (n/k/a Pachinko, Inc.); Order of Suspension of Trading

February 11, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The Jockey

Club, Inc. because it has not filed any periodic reports since the period ended July 31, 1995.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Juina Mining Corp., Inc. (n/k/a AC Energy, Inc.) because it has not filed any periodic reports since October 1, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Jumbosports, Inc. because it has not filed any periodic reports since the period ended July 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Just Like Home, Inc. because it has not filed any periodic reports since the period ended June 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Just Toys, Inc. (n/k/a Pachinko, Inc.) because it has not filed any periodic reports since the period ended September 30, 2000.

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. EST on February 11, 2009, through 11:59 p.m. EST on February 25, 2009.

By the Commission.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-3252 Filed 2-11-09; 4:15 pm]
BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59370; File No. SR-NASDAQ-2008-101]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change To Adopt a Policy Relating to Its Treatment of Trade Reports That It Determines To Be Inconsistent With the Prevailing Market Retroactive to September 1, 2008

February 6, 2009.

I. Introduction

On December 19, 2008, The NASDAQ Stock Market LLC ("Nasdaq") filed with

the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt a policy relating to its treatment of trade reports that it determines to be inconsistent with the prevailing market and to make such policy retroactive to September 1, 2008. The proposed rule change was published for comment in the **Federal Register** on January 2, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Trades in listed securities occasionally occur at prices that deviate from prevailing market prices and those trades sometimes establish a high, low or last sale price for a security that does not reflect the true market for the security. Nasdaq seeks to address such instances of "aberrant" trades by adopting a policy that is substantially similar to a policy of the New York Stock Exchange ("NYSE").⁴ On December 19, 2008, Nasdaq also filed a proposed rule change, which it designated as eligible for immediate effectiveness pursuant to Rule 19b-4(f)(6) under the Act,⁵ to adopt a policy relating to Nasdaq's treatment of trade reports that it determines to be inconsistent with the prevailing market.⁶ The policy proposed in the instant rule change is identical to the policy set forth in Release No. 34-59151, except that the instant proposal is retroactive to September 1, 2008.

The Exchange proposes that its policy in this regard shall be to contact the listing exchange (if Nasdaq is not the listing exchange) and other markets (in the case of executions that take place across multiple markets) to determine if any erroneous trade reports were filed. If Nasdaq determines the trade price of a trade through Nasdaq is inconsistent with the prevailing market for the security after considering the factors outlined herein, the Exchange may make the determination to append an indicator (an "Aberrant Report Indicator") to the trade.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59149 (December 23, 2008), 74 FR 155.

⁴ See Securities Exchange Act Release No. 59064 (December 5, 2008), 73 FR 76082 (December 15, 2008) (order approving SR-NYSE-2008-91).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ See Securities Exchange Act Release No. 59151 (December 23, 2008), 74 FR 158 (January 2, 2009) (SR-NASDAQ-2008-100) ("Release No. 34-59151").

Nasdaq trades stocks listed on its own market and trades on an unlisted trading privilege ("UTP") basis securities listed on other markets. Nasdaq operates the securities information processor ("SIP"), which processes trade and quote information for the Nasdaq UTP Plan ("Nasdaq SIP"). The Securities Industry Automation Corporation ("SIAC") serves as the securities information processor for the CTA Plan and processes trade and quote information for trades in non-Nasdaq listed securities. The Nasdaq SIP and the Consolidated Tape Association ("CTA") offer each participant in the Nasdaq UTP and CTA Plan the discretion to append to the Aberrant Report Indicator to a trade report to indicate that the market believes that the trade price in a trade executed on that market does not accurately reflect the prevailing market for the security.⁷

During the course of surveillance by the Exchange or as a result of notification by another market, listed company or market participant, the Exchange may become aware of trade prices that do not accurately reflect the prevailing market for a security. In such a case, the Exchange proposes to adopt as policies that it:

- i. May determine to append an Aberrant Report Indicator to any trade report with respect to any trade executed on the Exchange that the Exchange determines to be inconsistent with the prevailing market; and
- ii. Shall discourage vendors and other data recipients from using prices to which the Exchange has appended the Aberrant Report Indicator in any calculation of the high, low or last sale price of a security.

Nasdaq believes that retroactive application of its aberrant trade policy is warranted because of unprecedented market volatility and trade reporting issues that all market centers experienced beginning in September 2008. Therefore, the Exchange believes that it should be permitted to act retroactively to append the Aberrant Report Indicator to trades that do not accurately reflect the prevailing market for a security commencing as of September 1, 2008.

The Exchange will urge vendors to disclose the exclusion from high, low or last sale price data of any trades with an Aberrant Report Indicator and exclude them from high, low or last sale price information that they disseminate and to provide to data users an explanation

of the parameters used in the Exchange's aberrant trade policy. Upon initial adoption of the Aberrant Report Indicator, the Exchange will contact all of its listed companies via a Head Trader Alert to explain the aberrant trade policy and that the underlying trades remain valid and will clear. In the event the trade relates to a Nasdaq-listed security, Nasdaq's Market Intelligence Desk will inform the affected listed company that these are still valid trades in that they were executed and not unwound as in the case of a clearly erroneous trade.

While SIAC, on behalf of the CTA Plan, and the Nasdaq SIP, on behalf of the Nasdaq UTP Plan, disseminate their own calculations of high, low and last sale prices, vendors and other data recipients—and not the Exchange—frequently determine their own methodology by which they wish to calculate high, low and last sale prices. Therefore, the Exchange represents that it will endeavor to explain to those vendors and other data recipients the deleterious effects that can result from including in the calculations a trade to which the Aberrant Report Indicator has been appended.

In making the determination to append the Aberrant Report Indicator, the Exchange will consider all factors related to a trade, including, but not limited to, the following:

- Material news released for the security;
- Suspicious trading activity;
- System malfunctions or disruptions;
- Locked or crossed markets;
- A recent trading halt or resumption of trading in the security;
- Whether the security is in its initial public offering;
- Volume and volatility for the security;
- Whether the trade price represents a 52-week high or low for the security;
- Whether the trade price deviates significantly from recent trading patterns in the security;
- Whether the trade price reflects a stock-split, reorganization or other corporate action;
- The validity of consolidated tape trades and quotes in comparison to national best bids and offers; and
- The general volatility of market conditions.

In determining whether trade prices are inconsistent with the prevailing market, the Exchange proposes that its policy shall be to follow the following general guidelines: The Exchange will review whether a trade price does not reflect the prevailing market for a security if the trade occurs during

regular trading hours (i.e., 9:30 a.m. to 4 p.m.) and occurs at a price that deviates from the "Reference Price" by an amount that meets or exceeds the following thresholds:

Trade price	Numerical threshold (percent)
Between \$0 and \$15.00	7
Between \$15.01 and \$50.00	5
In excess of \$50.00	3

The "Reference Price" refers to (a) if the primary market for the security is open at the time of the trade, the national best bid or offer for the security, or (b) if the primary market for the security is not open at the time of the trade, the first executable quote or print for the security on the primary market after execution of the trade in question. However, if the circumstances suggest that a different Reference Price would be more appropriate, the Exchange will use the different Reference Price. For instance, if the national best bid and offer for the security are so wide apart as to fail to reflect the market for the security, the Exchange might use as the Reference Price a trade price or best bid or offer that was available prior to the trade in question.

If Nasdaq determines that a trade price does not reflect the prevailing market for a security and the trade represented the last sale of the security on the Exchange during a trading session, the Exchange may also determine to remove that trade's designation as the last sale and the preceding last sale eligible trade would become the new last sale. Nasdaq may do so either on the day of the trade or at a later date, so as to provide reasonable time for the Exchange to conduct due diligence regarding the trade, including the consideration of input from markets and other market participants.

The Exchange advises that it proposes to use the Aberrant Report Indicator in accordance with the guidelines set forth above and that it may apply the Aberrant Report Indicator on a retroactive basis commencing September 1, 2008.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular,

⁷ The CTA recommends that data recipients should exclude the price of any trade to which the Aberrant Report Indicator has been appended from any calculation of the high, low and last sale prices for the security.

with Section 6(b) of the Act⁸ and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁹ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.¹⁰

The Commission believes that the Nasdaq's proposal to append an Aberrant Report Indicator to certain trade reports is a reasonable means to alert investors and others that the Nasdaq believes that the trade price for a trade executed in its market does not accurately reflect the prevailing market for the security. In addition, the Commission notes that Nasdaq will use objective numerical thresholds in determining whether a trade report is eligible to have an Aberrant Trade Indicator appended to it. The Commission further notes that the Nasdaq's appending the Aberrant Trade Indicator to a trade report has no effect on the validity of the underlying trade. The Commission previously found a similar proposal by the NYSE to be consistent with the Act.¹¹ Finally, the Commission notes that the retroactive application of this proposal to September 1, 2008 is substantially similar to the retroactive period approved for the NYSE.¹²

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-NASDAQ-2008-101) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-3095 Filed 2-12-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59369; File No. SR-NASDAQ-2008-097]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change To Adopt a Limited Exemption from OATS Order Data Recordation Requirements for Registered Options Market Makers

February 6, 2009.

On December 12, 2008, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt a limited exemption from OATS order data recordation requirements for registered options market makers. The proposed rule change was published in the *Federal Register* on January 2, 2009.³ The Commission received one comment letter expressing support for the proposal.⁴ This order approves the proposed rule change.

The Exchange proposes to amend the definition of "Order" contained in Nasdaq Rule 6951 to create a limited exemption from OATS order recordation requirements for bona fide hedging transactions in Nasdaq-listed equity securities originated by a trading desk in the ordinary course of the member's market making activity in options. The proposal applies to an options transaction on any options market in any standardized option made available for clearing through the Options Clearing Corporation.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in particular, with Section 6 of the Act⁵ and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁶ which requires, among other things, that the Exchange's proposal be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.⁷

OATS is an integrated audit trail of order, quote, and trade information for Nasdaq-listed equity securities used to recreate events in the life cycle of orders and more completely monitor the trading practices of member firms. OATS was designed to provide an accurate, time-sequenced record of orders and transactions, beginning with the receipt of an equity order at the first point of contact between the broker-dealer and the customer or counterparty and further documenting the life of the equity order through the process of execution. Thus, OATS captures information that can be used to surveil for trading abuses that would undermine the integrity of the market and harm investors.⁸ There is an exemption from the OATS requirements for instructions to effect proprietary transactions originated by a trading desk in the ordinary course of a member's market making activities.⁹ Further, the Nasdaq rules provide an exemption from OATS transmission requirements for orders entered by proprietary trading firms.¹⁰

The Commission notes that Nasdaq believes that because bona fide hedging transactions in equity securities are undertaken by an options market maker to hedge against the firm risk that it creates through its conduct as a registered options market maker, submitting bona fide hedging transactions to OATS recording requirements provides no customer protection or equivalent regulatory benefit. Additionally, the Commission notes that Nasdaq believes that it is very expensive for firms that are not currently FINRA members or that do not currently trade NASDAQ equities to develop and maintain the compliance systems and compliance staff required to continuously monitor the daily transmission of OATS data.

Similarly to the aforementioned OATS exemptions, the Commission

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ See *supra* note 4.

¹² *Id.*

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59163 (December 24, 2008), 74 FR 160.

⁴ See letter from Greg O'Connor, Compliance Manager, Wolverine Execution Services, LLC to Florence E. Harmon, Acting Secretary, Commission, dated January 23, 2009.

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ In approving the proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

⁸ See Securities Exchange Act Release No. 39729 (March 6, 1998), 63 FR 12559 (March 13, 1998).

⁹ See Nasdaq Rule 6951(f).

¹⁰ See Nasdaq Rule 6955(b).

does not believe that the limited exemption proposed in this filing by Nasdaq would negatively impact the objectives of OATS. The Commission therefore believes that it is consistent with the Act to adopt a limited exemption from the OATS order recordation requirement for bona fide hedging transactions in Nasdaq-listed equity securities that are part of a Nasdaq's member's market making activity in options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NASDAQ-2008-097) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-3096 Filed 2-12-09; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11645 and #11646]

Arkansas Disaster #AR-00028

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 Arkansas (FEMA-1819-DR), dated 02/06/2009.

Incident: Severe Winter Storm.

Incident Period: 01/26/2009 and continuing.

Effective Date: 02/06/2009.

Physical Loan Application Deadline Date: 04/07/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 11/06/2009.

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 02/06/2009, 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: Baxter, Benton, Boone, Carroll, Clay, Craighead, Franklin, Fulton, Greene, Independence, Izard, Jackson, Johnson, Lawrence, Madison, Marion, Mississippi, Newton, Searcy, Sharp, Stone, Van Buren, Washington.

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 11645B and for economic injury is 11646B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E9-3146 Filed 2-12-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11643 and #11644]

Kentucky Disaster #KY-00019

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 Kentucky (FEMA-1818-DR), dated 02/05/2009.

Incident: Severe Winter Storm and Flooding.

Incident Period: 01/26/2009 and continuing.

Effective Date: 02/05/2009.

Physical Loan Application Deadline Date: 04/06/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 11/05/2009.

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 02/05/2009, Private Non-Profit organizations that provide essential services of a 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:

Allen, Anderson, Ballard, Barren, Bath, Bourbon, Boyd, Boyle, Bracken, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Christian, Clark, Clay, Crittenden, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Fulton, Garrard, Grant, Graves, Grayson, Green, Greenup, Hardin, Harrison, Hart, Henderson, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Larue, Lawrence, Lee, Lewis, Lincoln, Livingston, Logan, Lyon, Madison, Magoffin, Marion, Marshall, Martin, Mason, Mccracken, Mclean, Meade, Menifee, Mercer, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Powell, Robertson, Rockcastle, Rowan, Scott, Shelby, Spencer, Todd, Trigg, Union, Warren, Washington, Webster, Woodford.

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 11643B and for economic injury is 11644B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E9-3148 Filed 2-12-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11430 and #11431]

Texas Disaster Number TX-00308

AGENCY: U.S. Small Business Administration.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA-1791-DR), dated 09/13/2008.

Incident: Hurricane Ike.

Incident Period: 09/07/2008 through 10/02/2008.

Effective Date: 01/31/2009.

Physical Loan Application Deadline Date: 02/20/2009.

EIDL Loan Application Deadline Date: 06/15/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT:

A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated 09/13/2008 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 02/20/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E9-3145 Filed 2-12-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11641 and #11642]

Washington Disaster Number WA-00019

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Washington (FEMA-1817-DR), dated 01/30/2009.

Incident: Severe Winter Storm, Landslides, Mudslides, and Flooding.

Incident Period: 01/06/2009 through 01/16/2009.

Effective Date: 02/06/2009.

Physical Loan Application Deadline Date: 03/31/2009.

EIDL Loan Application Deadline Date: 10/30/2009.

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 Washington, dated 01/30/2009 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Benton, Clallam, Cowlitz, Grays Harbor, Kittitas, Skagit, Whatcom.

Contiguous Counties: (Economic Injury Loans Only):

Washington: Clark, Douglas, Franklin, Grant, Klickitat, Okanogan, Walla Walla.

Oregon: Morrow, Umatilla.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E9-3149 Filed 2-12-09; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Agency Information Collection Activity Seeking OMB Approval**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The *Federal Register* Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 31, 2008, vol. 73, no. 212, page 65004. This collection is necessary in order to determine applicants' qualifications for certification as an Aviation Medical Examiner (AME).

DATES: Please submit comments by March 16, 2009.

FOR FURTHER INFORMATION CONTACT:

Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Aviation Medical Examiner Program.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120-0604.

Form(s): FAA Form 8520-2.

Affected Public: An estimated 450 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 30 minutes per response.

Estimated Annual Burden Hours: An estimated 225 hours annually.

Abstract: This collection is necessary in order to determine applicants' qualifications for certification as an Aviation Medical Examiner (AME).

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to oira_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. E9-3008 Filed 2-12-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Agency Information Collection Activity Seeking OMB Approval**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision to a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 31, 2008, vol. 73, no. 212, pages 65002–65003. Information is collected from applicants who wish to obtain repair station certification.

DATES: Please submit comments by March 16, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Final Rule Certification of Repair Stations, Part 145 of Title 14, CFR.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0682.

Form(s): FAA Form 8310–3.

Affected Public: An estimated 4,625 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 9.5 hours per response.

Estimated Annual Burden Hours: An estimated 185,000 hours annually.

Abstract: Information is collected from applicants who wish to obtain repair station certification. Applicants must submit FAA form 8310–3 to the appropriate FAA flight standards district office for review.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to

be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 6, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–3009 Filed 2–12–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Approval From the Office of Management and Budget of a New Information Collection Activity, Request for Comments: Specific Release Form

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a new information collection. The information garnered from a signed Specific Release form will be used by FAA Special Agents to obtain information related to a specific investigation.

DATES: Please submit comments by April 14, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Specific Release Form.

Type of Request: New collection.

OMB Control Number: 2120–XXXX.

Form(s): Form 1600–XX.

Affected Public: A total of 270 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 22.5 hours annually.

Abstract: The information garnered from a signed Specific Release form will be used by FAA Special Agents to obtain information related to a specific investigation. That information is then provided to the FAA decision making authority to make FAA employment and/or pilot certification/revocation determinations.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 6, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–3010 Filed 2–12–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35213]

GNP Rly Inc.—Acquisition and Operation Exemption—BNSF Railway Company

GNP Rly Inc. (GNP), a Class III rail carrier,¹ has filed a notice of exemption under 49 CRF 1150.41 to acquire and operate the exclusive freight rail easement (the easement) of BNSF Railway Company (BNSF) on a rail line known as Woodinville Subdivision, extending between approximately milepost 23.80 in Woodinville and approximately milepost 38.25 in Snohomish, a distance of approximately 14.45 miles in King and Snohomish counties, WA (the Line). GNP has negotiated two agreements with BNSF, one covering the purchase of the easement and the other for interchange with BNSF, to be signed upon the closing of the purchase of the Line's

¹ GNP received authority to lease and operate a segment of rail line between milepost 39.1 and milepost 39.3 in the City and County of Snohomish, WA, in *GNP Rly Inc.—Modified Rail Certificate—in Snohomish County, WA*, STB Finance Docket No. 35151 (STB served Aug. 13, 2008).

right-of-way, track, and physical assets by the Port of Seattle (the Port).²

GNP certifies that its projected annual revenues as a result of this transaction will not result in GNP's becoming a Class II or Class I rail carrier and will be less than \$5 million.

GNP states that it expects to consummate the transaction on or after April 1, 2009. The earliest this transaction may be consummated is the February 28, 2009 effective date of the exemption (30 days after the exemption was filed).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110-161, section 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 20, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35213, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: February 6, 2009.

² See *The Port of Seattle—Acquisition Exemption—Certain Assets of BNSF Railway Company*, STB Finance Docket No. 35128 (STB served Oct. 27, 2008) (dismissing a notice of exemption by the Port to acquire the right-of-way, track, and physical assets of the Line, on which BNSF retained the exclusive easement to conduct freight operations, because the Board found that the transaction did not require Board approval).

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-3002 Filed 2-11-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Change in Return Policy for All Numismatic Products

SUMMARY: The United States Mint is changing its return policy for all numismatic products.

Effective February 10, 2009, the United States Mint will change its 30-day return policy. As a result of implementing a new pricing methodology for numismatic coins containing gold and platinum, the United States Mint is implementing a new seven-day return policy for all numismatic gold and platinum precious metal products. Further, to ensure consistency in our return policies across all numismatic product categories, the United States Mint will adopt this same seven-day return policy for all numismatic products. (This policy does not apply to \$1 coin direct shipments, which are not considered numismatic products.) Under this new policy, United States Mint customers will have the opportunity to return products within seven calendar days from the date they receive their orders.

FOR FURTHER INFORMATION CONTACT:

B.B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 Ninth Street, NW., Washington, DC 20220; or call 202-354-7500.

Authority: 31 U.S.C. 5111.

Dated: February 9, 2009.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E9-3084 Filed 2-12-09; 8:45 am]

BILLING CODE 4810-37-P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee February 2009 Public Meeting

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for February 24, 2009.

Date: February 24, 2009.

Time: 10 a.m. to 12 p.m.

Location: United States Mint, 801 9th Street, NW., Washington, DC 20220.

Subject: Review candidate designs for the Congressional Gold Medals honoring Senator Edward William Brooke III and Daw Aung San Suu Kyi.

Interested persons should call 202-354-7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.

- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.

- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Cliff Northup, United States Mint Liaison to the CCAC; 801 9th Street, NW., Washington, DC 20220; or call 202-354-7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202-756-6830.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: February 9, 2009.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E9-3085 Filed 2-12-09; 8:45 am]

BILLING CODE 4810-37-P



Federal Register

Friday,
February 13, 2009

Part II

Environmental Protection Agency

40 CFR Parts 51 and 52

**Prevention of Significant Deterioration
(PSD) and Nonattainment New Source
Review (NSR): Aggregation; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 51 and 52**

[EPA-HQ-OAR-2003-0064; FRL-8773-3]

RIN 2060-AL75

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation**AGENCY:** Environmental Protection Agency.**ACTION:** Delay of effective date.

SUMMARY: In a separate document in the "Rules" section of this **Federal Register**, the Environmental Protection Agency (EPA) announced the convening of a proceeding for reconsideration of the final rule that amends the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR) regulations addressing aggregation published in the **Federal Register** on January 15, 2009. By this action, the EPA is administratively staying and delaying the effective date of this rule for 90 days. Thus, the January 15, 2009 rule will become effective on May 18, 2009.

DATES: The effective date of FR Doc. E9-815, published in the **Federal Register** on January 15, 2009 (74 FR 2376) is delayed to May 18, 2009.

ADDRESSES: *Docket:* The final rule, the petition for reconsideration, and all other documents in the record for the rulemaking are in Docket ID No. EPA-HQ-OAR-2003-0064. 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 Air and Radiation Docket and Information Center, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Svendsgaard, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-2380, fax number

(919) 541-5509, e-mail address: svendsgaard.dave@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On January 15, 2009, the EPA ("we") issued a final rule amending the PSD and nonattainment NSR regulations that implement the definition of "modification" in the Clean Air Act (CAA) section 111(a)(4). The amendments addressed when a source must combine ("aggregate") nominally-separate physical changes and changes in the method of operation for the purpose of determining whether they are a single change under NSR and result in a significant emissions increase. The amendments retained the existing rule language for aggregation but interpreted that rule text to mean that sources and permitting authorities should combine emissions when activities are "substantially related." It also adopted a rebuttable presumption that activities at a plant can be presumed not to be substantially related if they occur three or more years apart. Collectively, this rulemaking is known as the "NSR Aggregation Amendments." For further information on the NSR Aggregation Amendments, see 74 FR 2376 (January 15, 2009).

On January 30, 2009, the Natural Resources Defense Council (NRDC) submitted a petition for reconsideration of the NSR Aggregation Amendments as provided for in CAA section 307(d)(7)(B). Under that provision, the Administrator may commence a reconsideration proceeding if the petitioner raises an objection to a rule that was impracticable to raise during the comment period or if the grounds for the objection arose after the comment period. In either case, the objection must be of central relevance to the outcome of the rule. The Administrator may stay the effectiveness of the rule for up to three months during such reconsideration.

In addition to receiving the NRDC Petition, we considered two memoranda to executive agencies: The January 20, 2009, White House memorandum entitled, "Regulatory Review," and the memorandum from the Office of Management and Budget entitled, "Implementation of Memorandum Concerning Regulatory Review" (M-09-08, January 21, 2009) (OMB memorandum). These memoranda suggest that agencies consider extending for 60 days the effective date of rules that were published prior to January 20, 2009 but which have not yet become effective when these rules raise substantial questions of law and policy.

Having considered the objections raised in the NRDC Petition, we believe the grounds for at least one of their objections arose after the comment period and are of central relevance to the NSR Aggregation Amendment. The concerns set forth in the NRDC Petition also raise substantial questions of law and policy. In a separate document in the "Rules" section of this **Federal Register**, we are announcing the convening of a proceeding for reconsideration of the NSR Aggregation Amendments. Due to the unique procedural rights granted under CAA section 307(d)(7)(B), including the right to request a hearing and the obligation to keep the record for the hearing open for 30 days, we believe that a 90-day stay of effectiveness is more appropriate than the shorter period recommended in "Regulatory Review" and the OMB memorandum.

II. Issuance of a Stay and Delay of Effective Date

The EPA hereby issues a three-month (90-day) administrative stay of the effectiveness of the NSR Aggregation Amendments. We will follow the notice and comment procedures under CAA 307(d), including providing an opportunity for a hearing, and will take appropriate action thereafter. To implement this administrative stay, we are delaying the effective date of FR Doc. E9-815, published in the **Federal Register** on January 15, 2009 (74 FR 2376), to May 18, 2009.

List of Subjects**40 CFR Part 51**

Environmental protection, Administrative practice and procedure, Air pollution control, Baseline emissions, Intergovernmental relations, Aggregation, Major modifications, Reporting and recordkeeping requirements.

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Baseline emissions, Intergovernmental relations, Aggregation, Major modifications, Reporting and recordkeeping requirements.

Dated: February 9, 2009.

Lisa P. Jackson,
Administrator.

[FR Doc. E9-3349 Filed 2-12-09; 11:15 am]

BILLING CODE 6560-50-P

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Federal Register

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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LIST OF PUBLIC LAWS

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H.R. 2/P.L. 111-3
Children's Health Insurance Program Reauthorization Act of 2009 (Feb. 4, 2009; 123 Stat. 8)
Last List February 2, 2009

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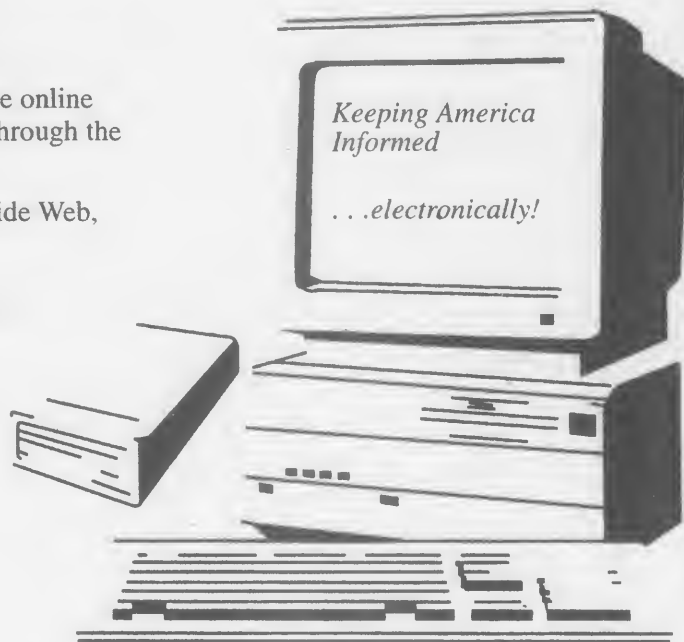
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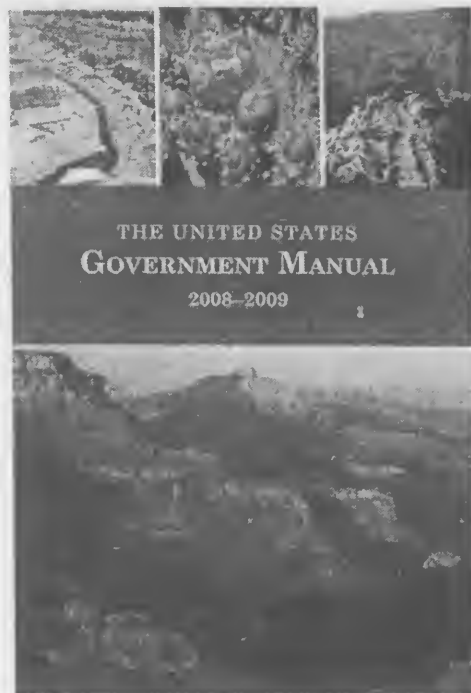
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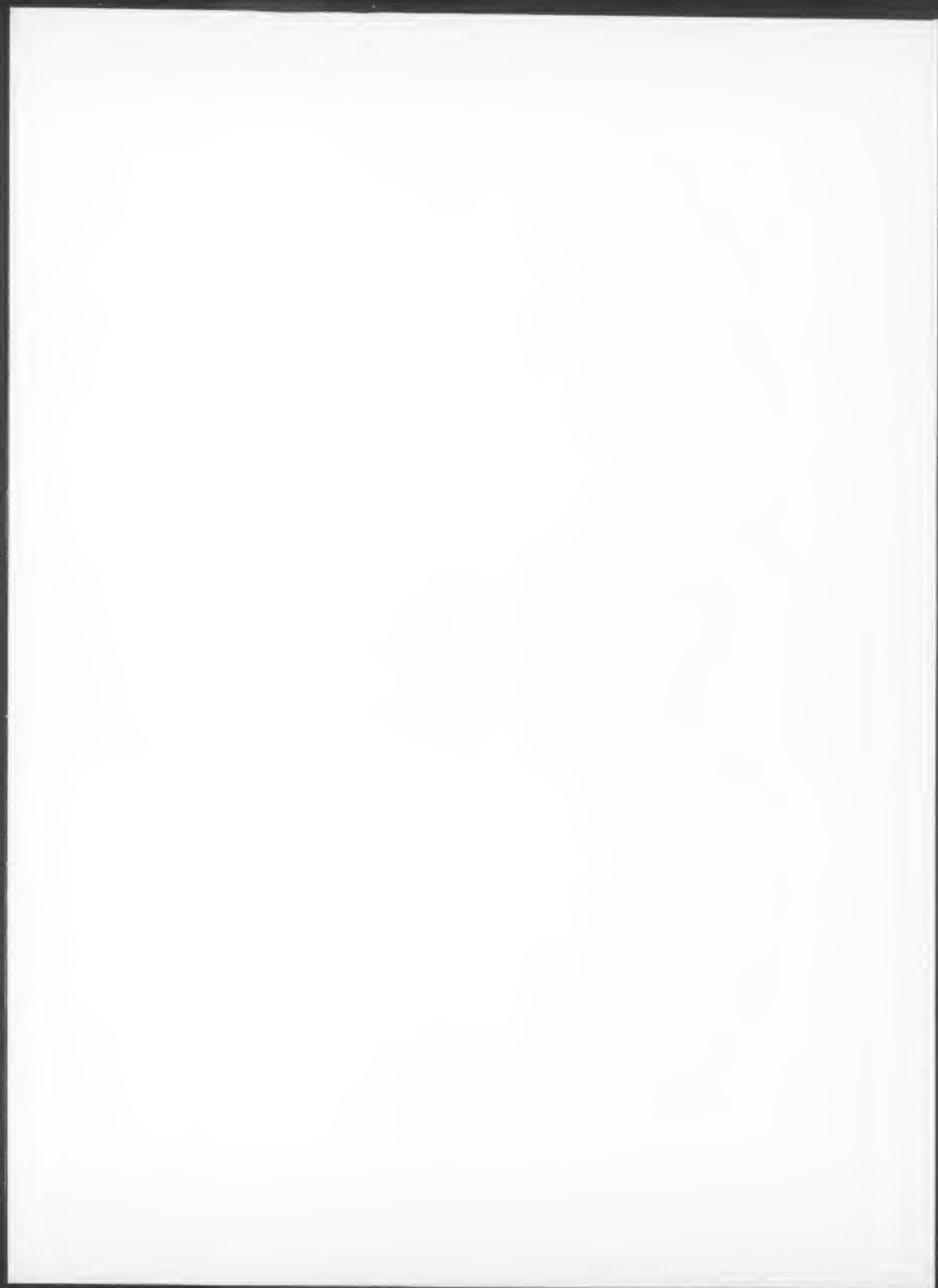
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