



# Federal Register

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Friday  
Apr. 17, 2009

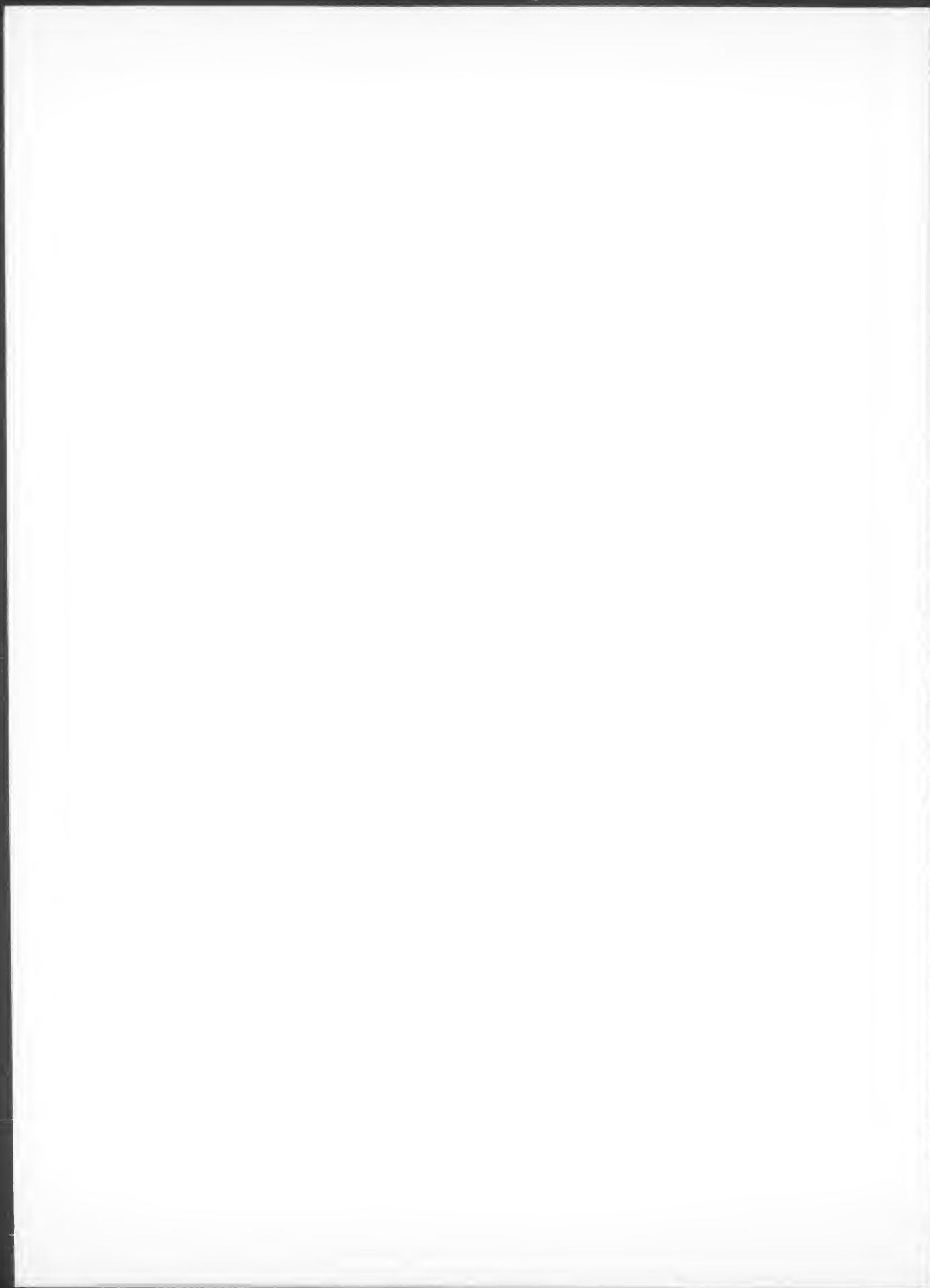
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**WHEN:** Tuesday, May 12, 2009  
9:00 a.m.–12:30 p.m.

**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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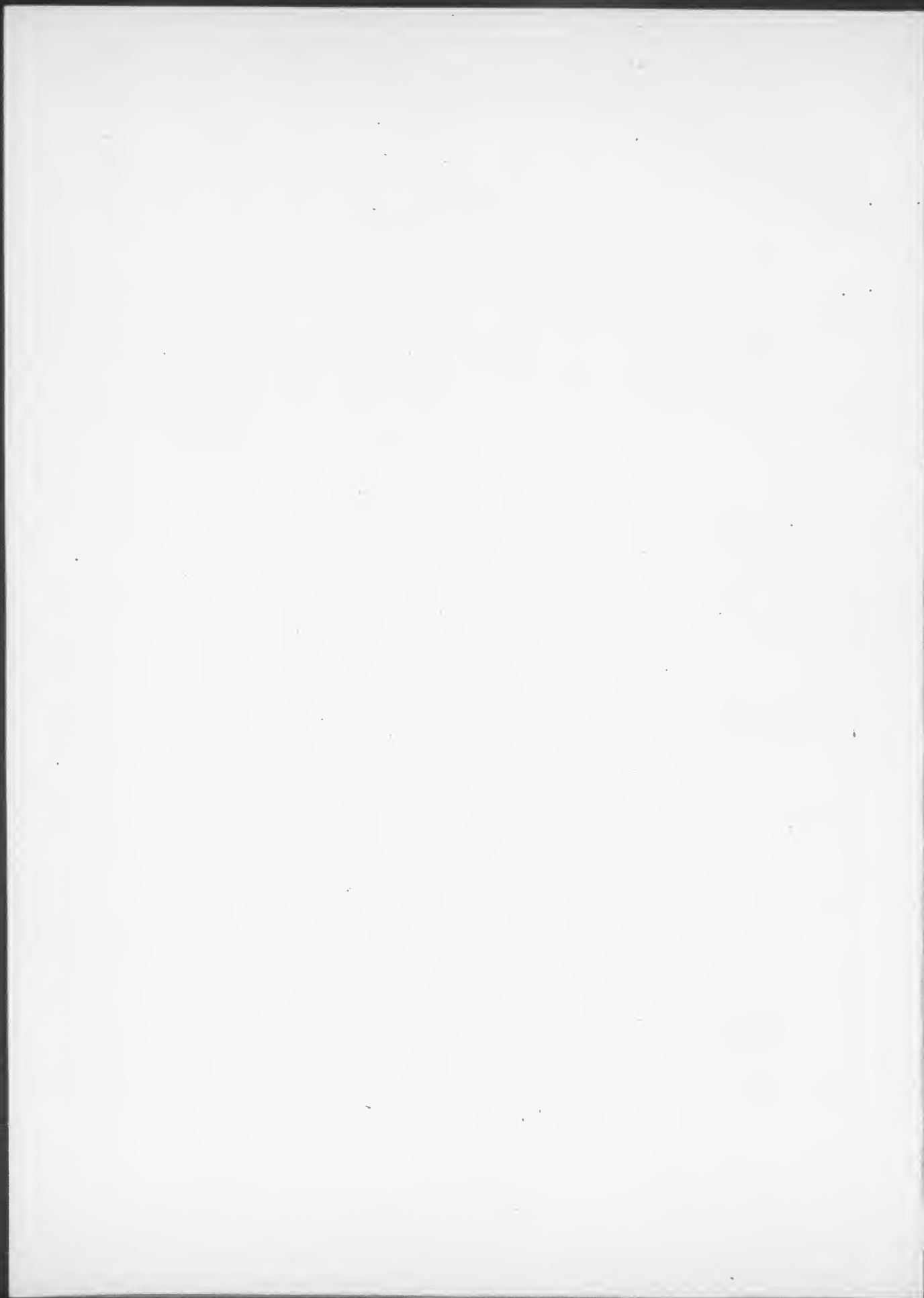
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Title 3—

Proclamation 8361 of April 14, 2009

The President

**Pan American Day And Pan American Week, 2009**

By the President of the United States of America

**A Proclamation**

A common heritage, an interconnected world, and shared goals and values unite the Pan American community. As a proud member of this group of countries, the United States celebrates Pan American Day and Pan American Week and commits to working with our partners in the Organization of American States to advance a common future.

The Pan American community is highly interwoven, and the peoples of the Americas must work together to build the future we seek. When one country faces economic, security, or health challenges, its neighbors share in this hardship. Together, the Pan American community can build strong partnerships to surmount common concerns and further mutual success.

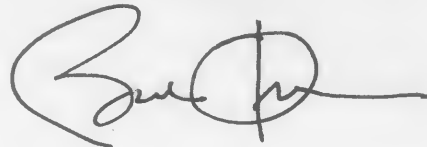
The broad scope of shared goals includes economic growth and equality, increased security, strong democratic governance, and clean energy. Robust, bottom-up economic growth benefits all citizens and all nations, and remains a central goal of the Pan American community. Together, the countries of the Americas can prioritize and enact policies that ensure a shared and equitable economic prosperity. This economic future is possible only if we protect the safety of citizens and the security of our countries. Whether reducing street crime and gang violence, decreasing the narcotics trade, or preventing acts of terrorism, every country has a stake in regional security.

The Pan American community also supports strong democracies and the development of alternative energy sources. The promotion of transparent and enduring democratic governance strengthens and defines relations in the region and should emphasize the rule of law, a robust civil society, respect for human rights, social equality, and effective delivery of public services. Finally, every country benefits from a solution to our shared energy and climate challenges. The region has already witnessed great leadership in the development and deployment of alternative energy sources, and the Pan American community must build upon these promising efforts.

As we celebrate Pan American Day and Pan American Week, and participate in the Summit of the Americas, the United States recognizes the common challenges and aspirations that unite the region and the boundless promise of our continuing partnership.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 14, 2009, as Pan American Day and April 12 through 18 as Pan American Week. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

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

A handwritten signature in black ink, appearing to be Barack Obama's signature, written in a cursive style.

[FR Doc. E9-9038  
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# Rules and Regulations

Federal Register

Vol. 74, No. 73

Friday, April 17, 2009

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

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1240

[Document Number AMS-FV-09-0006; FV-09-701]

#### Honey Research, Promotion, and Consumer Information Order; Termination

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule; termination order.

**SUMMARY:** This final rule terminates the Honey Research, Promotion, and Consumer Information Order (Honey Order) and its rules and regulations in their entirety. The Department previously proposed termination of the Honey Order because of the duplicative nature of the Honey Order with the new honey packers and importers program. This action is necessary because the results of a referendum conducted among honey first handlers and importers between April 2 and April 16, 2008, favored implementation of a new honey packers and importers program, and that program is now in effect. Therefore, termination of the Honey Order is appropriate.

**DATES:** *Effective Date:* April 20, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kathie Notoro, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, Room 0632-S, 1400 Independence Ave., SW., Washington, DC 20250-0244; telephone (202) 720-9915 or (888) 720-9917 (toll free), Fax: (202) 205-2800 or e-mail [kathie.notoro@ams.usda.gov](mailto:kathie.notoro@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under the Honey Research, Promotion and Consumer Information Act [7 U.S.C. 4601-4613] (Act).

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

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

This final rule terminates the Honey Order and its rules and regulations. The Act, which became effective in October 1984, authorized the creation of a program of promotion and information for honey and honey products. The National Honey Board was appointed to administer the Honey Order under the Department's supervision. The Honey Order covered an estimated 2,000 producers and 659 importers of honey and honey products.

The National Honey Packers and Dealers Association submitted a proposal for a Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Packers Order) in 2006.

A proposed Packers Order was published in the **Federal Register** on June 4, 2007 [72 FR 30924], with a 60-day request for comment period which ended on August 3, 2007. That rule also proposed termination of the Honey Order and regulations in 7 CFR part 1240 if the Packers Order was implemented. Honey associations and related honey industry media received news releases and other information regarding the proposed implementation of the Packers Order and termination of the Honey Order.

After reviewing all timely comments received, a second proposed rule and referendum order was published in the **Federal Register** on March 3, 2008 [73 FR 11470]. Also, a final rule concerning referendum procedures was published in the **Federal Register** the same day.

First handlers and importers who handled 250,000 pounds or more of honey or honey products, during the period from January 1, 2007, through December 31, 2007, were eligible to vote in the April 2-16, 2008, referendum to determine if they favored implementation of the Packers Order. Seventy-eight percent of those voting in

the referendum, covered under the Packers Order, representing ninety-two percent of the volume who voted in the referendum, approved the new program. With the implementation of the Packers Order, the Honey Order would be terminated as soon as practicable.

In accordance with section 1240.63, of the Honey Order, the Board recommended to the Secretary five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. These trustees were designated by the Secretary and became responsible for all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of the final audit. Further, the Department published a suspension of the collection of assessments under the Honey Order and a final rule establishing the Packers Order in the **Federal Register** on May 21, 2008 [73 FR 29390]. The other provisions of the Honey Order remained in effect in order to facilitate the five trustees' ability to liquidate the assets and terminate the Honey program after a final audit was conducted. A final audit was conducted on January 14, 2009.

Therefore, this final rule terminates all provisions of the Honey Order and its rules and regulations.

#### Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) is required to examine the impact of the rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

Under the Honey Order, approximately 2,000 producers and 659 importers of honey and honey products paid assessments. Approximately 45 handlers were also covered for recordkeeping and reporting requirements. The Small Business Administration [13 CFR 121.201] defines small agricultural producers as those having annual receipts of \$750,000 or less annually and small agricultural service firms as those having annual receipts of \$7 million or less. Using these criteria under the Honey Order, most producers, first handlers, cooperative organizations and

other nominating organizations would be considered small businesses, while most importers and exporters would not. Cooperative and other nominating organizations would be expected to generally reflect the size of the entities that they represent.

Taking into account the duplicative nature of the new Packers Order with the Honey Order, the Department previously suspended assessment collection under the Honey Order on May 21, 2008. This action will now terminate all of the provisions of the Honey Order and regulations issued thereunder and remove the regulatory impact on all entities subject to the requirements of the Honey Order and its regulations.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection requirements under the Honey Order were approved by the Office of Management and Budget (OMB) and assigned OMB numbers 0581-0093 and 0581-0001. When assessment collections were terminated on May 21, 2008, these information collection requirements were also suspended. Now that the Honey Order is being terminated, these requirements also are eliminated. The costs and burden on the industry associated with these requirements are also eliminated.

#### Termination Order

Taking into account the duplicative nature of the Packers Order with the Honey Order, it is found that the current Honey Order issued under the Honey Research, Promotion and Consumer Information Act does not tend to effectuate the purposes of the Act. It is therefore ordered, that pursuant to section 13 of the Act, the Honey Order, and its rules and regulations [7 CFR part 1240] are hereby terminated.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The assets of the Honey Board have been liquidated, and (2) a final audit of the Board's books has been conducted.

#### List of Subjects in 7 CFR Part 1240

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Honey promotion, Reporting and recordkeeping requirements.

#### PART 1240—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 4601-4613, 7 CFR part 1240 is removed.

Dated: April 13, 2009.

**Robert C. Keeney,**

*Acting Associate Administrator, Agricultural Marketing Service.*

[FR Doc. E9-8852 Filed 4-16-09; 8:45 am]

BILLING CODE

#### FEDERAL RESERVE SYSTEM

##### 12 CFR Part 230

[Regulation DD; Docket No. R-1315]

##### Truth in Savings; Correction

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Final rule; technical correction.

**SUMMARY:** On January 29, 2009, the Board published final rules amending Regulation DD, which implements the Truth in Savings Act, and the official staff commentary to the regulation. The final rule, among other things, requires all depository institutions to disclose aggregate overdraft fees on periodic statements, and not solely institutions that promote the payment of overdrafts. However, the document published in the **Federal Register** on January 29, 2009 contains a technical error in the formatting of the sample form illustrating how institutions may comply with this requirement. To correct this error, this document republishes the appropriate sample form.

**DATES:** This correction is effective January 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dana E. Miller, Attorney, Vivian W. Wong, Senior Attorney, or Ky Tran-Trong, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, at (202) 452-3667 or (202) 452-2412. For users of a Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**SUPPLEMENTARY INFORMATION:** On January 29, 2009, the Board published final rules amending Regulation DD, which implements the Truth in Savings Act, and the official staff commentary to the regulation. The final rule, among other things, requires all depository institutions to disclose aggregate overdraft fees on periodic statements,

and not solely institutions that promote the payment of overdrafts. However, the document published in the **Federal Register** on January 29, 2009 contains a technical error in the formatting of the sample form illustrating how institutions may comply with this requirement. To correct this error, this document republishes the appropriate sample form.

##### Basis for the Corrections

The Board is issuing this technical correction as a final rule that will be effective upon publication in the **Federal Register**. The Administrative Procedure Act (the Act) provides that notice and comment procedures do not apply if the agency for good cause finds notice to be "impracticable, unnecessary, or contrary to the public interest." The Act also provides that notice and comment procedures do not apply for interpretive rules. In addition, a rule may be made effective less than thirty days from publication when an agency finds good cause for such action. 5 U.S.C. 553(b)(A)-(B) and (d)(3).

The Board finds that the Act does not require notice of a proposed rulemaking before the final publication of the corrected sample form. There is good cause to publish the formatting requirements without notice and comment because these procedures are unnecessary. The formatting correction to the sample form is a non-substantive change to the form. The republication merely corrects an error that occurred in the printing of the sample form when it was originally published. For this same reason, the Board finds that there is good cause for the rule to take effect upon publication.

In addition, the correction may be viewed as interpretative in that the form only indicates how the rule should apply, and, therefore, a notice of proposed rulemaking is not required.

##### Paperwork Reduction Act

This technical correction contains no collection of information pursuant to the Paperwork Reduction Act.

■ In the final rule FR Doc. E8-31183 published in the **Federal Register** on January 29, 2009 (74 FR 5584) make the following correction:

##### Appendix B to Part 230—[Corrected]

■ 1. On page 5593, in the third column, Form B-10, is corrected to read as follows:

##### Appendix B to Part 230—Model Clauses and Sample Forms

\* \* \* \* \*

**B-10 Aggregate Overdraft and Returned Item Fees Sample Form**

	<b>Total For This Period</b>	<b>Total Year-to-Date</b>
<b>Total Overdraft Fees</b>	<b>\$60.00</b>	<b>\$150.00</b>
<b>Total Returned Item Fees</b>	<b>\$0.00</b>	<b>\$30.00</b>

\* \* \* \* \*

By order of the Board of Governors of the  
Federal Reserve System, April 14, 2009.

Jennifer J. Johnson,  
Secretary of the Board.

[FR Doc. E9-8847 Filed 4-16-09; 8:45 am]  
BILLING CODE 6210-01-P

**SECURITIES AND EXCHANGE  
COMMISSION****17 CFR Part 211**

[Release No. SAB 111]

**Staff Accounting Bulletin No. 111**

**AGENCY:** Securities and Exchange  
Commission.

**ACTION:** Publication of Staff Accounting  
Bulletin.

**SUMMARY:** This staff accounting bulletin ("SAB") amends Topic 5.M. in the Staff Accounting Bulletin Series entitled *Other Than Temporary Impairment of Certain Investments in Debt and Equity Securities* ("Topic 5.M."). On April 9, 2009, the FASB issued FASB Staff Position No. FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other-Than-Temporary Impairments* ("FSP 115-2") to provide guidance for assessing whether an impairment of a debt security is other than temporary. This SAB maintains the staff's previous views related to equity securities. It also amends Topic 5.M. to exclude debt securities from its scope.

**DATES:** Effective April 13, 2009.

**FOR FURTHER INFORMATION CONTACT:**  
Robert Malhotra, Senior Advisor, or  
Adam Brown, Professional Accounting  
Fellow, Office of the Chief Accountant,  
at (202) 551-5300; or Stephanie  
Hunsaker, Associate Chief Accountant,  
Division of Corporation Finance, at  
(202) 551-3400, Securities and  
Exchange Commission, 100 F Street,  
NE., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The  
statements in staff accounting bulletins

are not rules or interpretations of the  
Commission, nor are they published as  
bearing the Commission's official  
approval. They represent interpretations  
and practices followed by the Division  
of Corporation Finance and the Office of  
the Chief Accountant in administering  
the disclosure requirements of the  
Federal securities laws.

Dated: April 13, 2009.  
Elizabeth M. Murphy,  
Secretary.

**PART 211—[AMENDED]**

■ Accordingly, Part 211 of Title 17 of  
the Code of Federal Regulations is  
amended by adding Staff Accounting  
Bulletin No. 111 to the table found in  
Subpart B.

**Staff Accounting Bulletin No. 111**

This staff accounting bulletin ("SAB")  
hereby amends and replaces Topic 5.M.  
in the Staff Accounting Bulletin Series  
entitled *Other Than Temporary  
Impairment of Certain Investments in  
Debt and Equity Securities* ("Topic  
5.M."). On April 9, 2009, the FASB  
issued FASB Staff Position No. FAS  
115-2 and FAS 124-2, *Recognition and  
Presentation of Other-Than-Temporary  
Impairments* ("FSP 115-2") to provide  
guidance for assessing whether an  
impairment of a debt security is other  
than temporary. Topic 5.M. (as  
amended) maintains the staff's previous  
views related to equity securities. It also  
amends Topic 5.M. to exclude debt  
securities from its scope.

**Note:** The text of SAB 111 will not appear  
in the Code of Federal Regulations.

**Topic 5: Miscellaneous Accounting**

\* \* \* \* \*

**M. Other Than Temporary Impairment  
of Certain Investments in Equity  
Securities**

**Facts:** FASB Staff Position No. FAS  
115-2 and FAS 124-2, *Recognition and  
Presentation of Other-Than-Temporary  
Impairments* ("FSP 115-2") does not  
define the phrase "other than

temporary" for available-for-sale equity  
securities. For its available-for-sale  
equity securities, Company A has  
interpreted "other than temporary" to  
mean permanent impairment. Therefore,  
because Company A's management has  
not been able to determine that its  
investment in Company B's equity  
securities is permanently impaired, no  
realized loss has been recognized even  
though the market price of Company B's  
equity securities is currently less than  
one-third of Company A's average  
acquisition price.

**Question:** For equity securities  
classified as available-for-sale, does the  
staff believe that the phrase "other than  
temporary" should be interpreted to  
mean "permanent"?

**Interpretive Response:** No. The staff  
believes that the FASB consciously  
chose the phrase "other than  
temporary" because it did not intend  
that the test be "permanent  
impairment," as has been used  
elsewhere in accounting practice.<sup>1</sup>

The value of investments in equity  
securities classified as available-for-sale  
may decline for various reasons. The  
market price may be affected by general  
market conditions which reflect  
prospects for the economy as a whole or  
by specific information pertaining to an  
industry or an individual company.  
Such declines require further  
investigation by management. Acting  
upon the premise that a write-down  
may be required, management should  
consider all available evidence to  
evaluate the realizable value of its  
investment in equity securities  
classified as available-for-sale.

There are numerous factors to be  
considered in such an evaluation and  
their relative significance will vary from  
case to case. The staff believes that the  
following are only a few examples of the

<sup>1</sup> FASB Staff Position No. 115-1 and 124-1, "The  
Meaning of Other-Than-Temporary Impairment and  
Its Application to Certain Investments" refers to  
this SAB for a discussion of considerations  
applicable to a determination as to whether a  
decline in market value below cost of an equity  
security, at a particular point in time, is other than  
temporary.

factors which, individually or in combination, indicate that a decline in value of an equity security classified as available-for-sale is other than temporary and that a write-down of the carrying value is required:

a. The length of the time and the extent to which the market value has been less than cost;

b. The financial condition and near-term prospects of the issuer, including any specific events which may influence the operations of the issuer such as changes in technology that may impair the earnings potential of the investment or the discontinuance of a segment of the business that may affect the future earnings potential; or

c. The intent and ability of the holder to retain its investment in the issuer for a period of time sufficient to allow for any anticipated recovery in market value.

Unless evidence exists to support a realizable value equal to or greater than the carrying value of the investment in equity securities classified as available-for-sale, a write-down to fair value accounted for as a realized loss should be recorded. Such loss should be recognized in the determination of net income of the period in which it occurs and the written down value of the investment in the company becomes the new cost basis of the investment.

[FR Doc. E9-8801 Filed 4-16-09; 8:45 am]

BILLING CODE 0000-00-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; Fenbendazole Suspension

**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 Intervet, Inc. The supplemental NADA provides for a revised human food safety warning for use of fenbendazole suspension in horses.

**DATES:** This rule is effective April 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Melanie R. Berson, Center for Veterinary Medicine (HFV-110), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8337, e-mail: [melanie.berson@fda.hhs.gov](mailto:melanie.berson@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Intervet, Inc., P.O. Box 318, 29160 Intervet Lane, Millsboro, DE 19966, filed a supplement to NADA 104-494 that provides for use of PANACUR (fenbendazole) Suspension 10% in horses for the control of various internal parasites. The supplemental NADA provides for a revised human food safety warning on product labeling. The supplemental NADA is approved as of March 25, 2009, and the regulations are amended in 21 CFR 520.905a to reflect the approval and a current format.

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(a)(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. Amend § 520.905a as follows:

- a. Revise paragraph (a);
- b. Remove paragraph (e);
- c. Redesignate paragraph (d) as paragraph (e);
- d. Add new paragraph (d); and
- e. Revise newly redesignated paragraphs (e)(1)(i), (e)(1)(iii), (e)(2)(i), (e)(2)(iii), (e)(3)(i), (e)(3)(ii), and (e)(4)(i).

The revisions and addition are to read as follows:

#### § 520.905a Fenbendazole suspension.

(a) *Specifications.* Each milliliter of suspension contains 100 milligrams (mg) fenbendazole.

\* \* \* \* \*

(d) *Special considerations*—(1) See § 500.25 of this chapter.

(2) Fenbendazole suspension 10 percent and approved forms of trichlorfon, when used concomitantly for treating the indications provided in paragraph (e) of this section and for treating infections of stomach bot as provided in § 520.2520, have been shown to be compatible and not to interfere with one another.

(e) \* \* \*

(1) \* \* \*

(i) *Amount.* Administer orally 5 mg per kilogram (kg) (2.3 mg per pound (lb)) for the control of large strongyles, small strongyles, and pinworms; 10 mg/kg for the control of ascarids.

\* \* \* \* \*

(iii) *Limitations.* Administer by dose syringe or suitable plastic syringe. Do not use in horses intended for human consumption.

(2) \* \* \*

(i) *Amount.* Administer orally 5 mg/kg of body weight (2.3 mg/lb).

\* \* \* \* \*

(iii) *Limitations.* Retreatment may be needed after 4 to 6 weeks. Cattle must not be slaughtered within 8 days following last treatment.

(3) \* \* \*

(i) *Amount.* Administer orally 10 mg/kg of body weight.

(ii) *Indications for use.* For the removal and control of stomach worm (4th stage inhibited larvae/type II ostertagiasis), *Ostertagia ostertagi*, and tapeworm, *Moniezia benedeni*.

\* \* \* \* \*

(4) \* \* \*

(i) *Amount.* Administer orally 5 mg/kg of body weight (2.3 mg/lb).

\* \* \* \* \*

Dated: April 9, 2009.

Steven D. Vaughn,

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

[FR Doc. E9-8822 Filed 4-16-09; 8:45 am]

BILLING CODE 4160-01-S

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[DE103-1101; FRL-8789-7]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by Delaware that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

**DATES:** *Effective Date:* This action is effective April 17, 2009.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108 or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

The SIP is a living document which the State revises as necessary to address the unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On December 7, 1998 (63 FR 67407), EPA published a document in the **Federal Register** beginning the new IBR procedure for Delaware. On June 21, 2004 (69 FR 34285) and April 3, 2007 (72 FR 15839), EPA published updates to the IBR material for Delaware.

**II. EPA Action**

In this document, EPA is doing the following:

A. Announcing the update to the IBR material as of February 1, 2009.

B. Making corrections to the following entries listed in the paragraph 52.420(c) table, as described below:

1. General—revising the format in the "State citation" column so that the entries read "Regulation No." instead of "Regulation."

2. Regulation No. 1102, Sections 1, 6, 11 and 12—removing the SIP effective date text in the "Additional explanation" column.

3. Regulation No. 1124, Section 36—correcting an error to the **Federal Register** publication date and page citation in the "EPA approval date" column.

4. Regulation No. 25, Section 3—correcting an error to the **Federal Register** publication date and page citation in the "EPA approval date" column.

5. Regulation No. 1132, Sections 1 through 4—correcting the date format in the "State effective date" column; and replacing the SIP effective date with **Federal Register** publication date and page citation in the "EPA approval date" column.

C. In the paragraph 52.420(e) table, for the entry RACT under the 8-Hour NAAQS, correcting the date format in the "State submittal date" and "EPA approval date" columns.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA)

which, upon finding "good cause," authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

**III. Statutory and Executive Order Reviews****A. General Requirements**

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);



- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

**B. Submission to Congress and the Comptroller General**

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

**C. Petitions for Judicial Review**

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for

each individual component of the Delaware SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this "Identification of plan" reorganization update action for Delaware.

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

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

Dated: March 17, 2009.  
 William T. Wisniewski,  
 Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart I—Delaware**

■ 2. Section 52.420 is amended by revising paragraphs (b), (c), (d), and (e) to read as follows:

**§ 52.420 Identification of plan.**

\* \* \* \* \*

- (b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) was

approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after February 1, 2009 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations and source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations and source-specific requirements which have been approved as part of the State implementation plan as of February 1, 2009.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103. For further information, call (215) 814-2108; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. For further information, call (202) 566-1742; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) *EPA approved Regulations.*

**EPA-APPROVED REGULATIONS IN THE DELAWARE SIP**

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
<b>Regulation No. 1 Definitions and Administrative Principles</b>				
Section 1 .....	General Provisions .....	5/28/74	03/23/76, 41 FR 12010.	New Definitions: (Effective date: 1/7/77) —Capacity factor. —Continuous monitoring system. —Emission standard. —Equipment shutdown. —Excess Emissions (Effective Date: 9/26/78). —Sulfuric Acid Plant. Revised Definitions: (Effective date: 1/7/77).
Section 2 .....	Definitions .....	10/11/98	3/11/99, 64 FR 12085.	
Section 2 .....	Definitions .....	2/8/95	9/9/99, 64 FR 48961 .....	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
				--Existing Installation, Equipment, Source, or Operation. --New Installation, Equipment, Source, or Operation.
Section 2 .....	Definitions .....	2/11/03	11/1/05, 70 FR 65847 .....	Added definition of PM <sub>2.5</sub> .
Section 3 .....	Administrative Principles .....	1/7/72	05/31/72, 37 FR 10842.	
Section 4 .....	Abbreviations .....	2/1/81	3/15/82, 48 FR 11013 .....	Abbreviation of "CAA" only.
<b>Regulation No. 1102 Permits</b>				
Section 1 .....	General Provisions .....	6/15/06	12/7/06, 71 FR 70883 .....	SIP effective date is 2/5/07.
Section 2 .....	Applicability .....	6/1/97	1/13/00, 65 FR 2048.	
Section 3 .....	Applications Prepared by Interested Parties .....	6/1/97	1/13/00, 65 FR 2048.	
Section 4 .....	Cancellation of Construction Permits .....	6/1/97	1/13/00, 65 FR 2048.	
Section 5 .....	Action on Applications .....	6/1/97	1/13/00, 65 FR 2048.	
Section 6 .....	Denial, Suspension or Revocation of Operating Permits.	6/15/06	12/7/06, 71 FR 70883 .....	SIP effective date is 2/5/07.
Section 7 .....	Transfer of Permit/Registration Prohibited .....	6/1/97	1/13/00, 65 FR 2048.	
Section 8 .....	Availability of Permit/Registration .....	6/1/97	1/13/00, 65 FR 2048.	
Section 9 .....	Registration Submittal .....	6/1/97	1/13/00, 65 FR 2048.	
Section 10 .....	Source Category Permit Application .....	6/1/97	1/13/00, 65 FR 2048.	
Section 11 .....	Permit Application .....	6/15/06	12/7/06, 71 FR 70883 .....	SIP effective date is 2/5/07.
Section 12 .....	Public Participation .....	6/15/06	12/7/06, 71 FR 70883 .....	SIP effective date is 2/5/07.
Section 13 .....	Department Records .....	6/1/97	1/13/00, 65 FR 2048.	
Appendix "A" .....	[List of Permit Exemptions] .....	6/1/97	1/13/00, 65 FR 2048.	
<b>Regulation No. 3 Ambient Air Quality Standards</b>				
Section 1 .....	General Provisions .....	2/11/03	11/1/05, 70 FR 65847 .....	Addition of section 1.6.j.
Section 2 .....	General Restrictions .....	3/11/80	10/30/81, 46 FR 53663.	
Section 3 .....	Suspended Particulates .....	3/11/80	10/30/81, 46 FR 53663.	
Section 4 .....	Sulfur Dioxide .....	3/11/80	10/30/81, 46 FR 53663.	
Section 5 .....	Carbon Monoxide .....	3/11/80	10/30/81, 46 FR 53663.	
Section 6 .....	Ozone .....	2/11/03	11/1/05, 70 FR 65847 .....	Addition to section 6.1—"This standard shall be applicable to New Castle and Kent Counties."; Addition of section 6.2;
Section 8 .....	Nitrogen Dioxide .....	3/11/80	10/30/81, 46 FR 53663.	
Section 10 .....	Lead .....	3/11/80	3/11/82, 48 FR 10535.	
Section 11 .....	PM <sub>10</sub> and PM <sub>2.5</sub> Particulates .....	2/11/03	11/1/05, 70 FR 65847 .....	Section title added "and PM <sub>2.5</sub> "; Addition of sections 11.2.a. and 11.2.b.
<b>Regulation No. 4 Particulate Emissions from Fuel Burning Equipment</b>				
Section 1 .....	General Provisions .....	5/28/74	3/23/76, 41 FR 12010.	
Section 2 .....	Emission Limits .....	5/28/74	3/23/76, 41 FR 12010.	
<b>Regulation No. 5 Particulate Emissions from Industrial Process Operations</b>				
Section 1 .....	General Provisions .....	5/28/74	3/23/76, 41 FR 12010.	
Section 2 .....	General Restrictions .....	5/28/74	3/23/76, 41 FR 12010.	
Section 3 .....	Restrictions on Hot Mix Asphalt Batching Operations.	5/28/74	3/23/76, 41 FR 12010.	
Section 4 .....	Restrictions on Secondary Metal Operations .....	12/2/77	07/30/79, 44 FR 44497.	
Section 5 .....	Restrictions on Petroleum Refining Operations .....	9/26/78	9/9/99, 64 FR 48961.	
Section 6 .....	Restrictions on Prill Tower Operations .....	9/26/78	08/01/80, 45 FR 51198.	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 7 .....	Control of Potentially Hazardous Particulate Matter.	1/7/72	5/31/72, 37 FR 10842.	
<b>Regulation No. 6 Particulate Emissions from Construction and Materials Handling</b>				
Section 1 .....	General Provisions .....	1/7/72	05/31/72, 37 FR 10842.	
Section 2 .....	Demolition .....	5/28/74	03/23/76, 41 FR 12010.	
Section 3 .....	Grading, Land Clearing, Excavation and Use of Non-Paved Roads.	5/28/74	03/23/76, 41 FR 12010.	
Section 4 .....	Material Movement .....	5/28/74	03/23/76, 41 FR 12010.	
Section 5 .....	Sandblasting .....	5/28/74	03/23/76, 41 FR 12010.	
Section 6 .....	Material Storage .....	5/28/74	03/23/76, 41 FR 12010.	
<b>Regulation No. 7 Particulate Emissions from Incineration</b>				
Section 1 .....	General Provisions .....	05/28/74	03/23/76, 41 FR 12010.	
Section 2 .....	Restrictions .....	12/8/83	10/3/84, 49 FR 39061 .....	Provisions were revised 10/13/89 by State, but not submitted to EPA as SIP revisions.
<b>Regulation No. 8 Sulfur Dioxide Emissions from Fuel Burning Equipment</b>				
Section 1 .....	General Provisions .....	12/8/83	10/3/84, 49 FR 39061.	
Section 2 .....	Limit on Sulfur Content of Fuel .....	5/9/85	12/8/86, 51 FR 44068.	
Section 3 .....	Emissions Control in Lieu of Sulfur Content Limits of Section 2.	5/9/85	12/8/86, 51 FR 44068.	
<b>Regulation No. 9 Emissions of Sulfur Compounds from Industrial Operations</b>				
Section 1 .....	General Provisions .....	5/9/85	12/8/86, 51 FR 44068.	
Section 2 .....	Restrictions on Sulfuric Acid Manufacturing Operations.	9/26/78	9/9/99, 64 FR 48961 .....	1. On 3/11/1982 (47 FR 10535), EPA approved revisions to Section 2 with a State effective date of 12/29/1980. 2. Section 2.2 (State effective date: 9/26/1980) is federally enforceable as a Section 111(d) plan and codified at 40 CFR 62.1875.
Section 3 .....	Restriction on Sulfur Recovery Operations .....	5/28/74	03/23/76, 41 FR 12010.	
Section 4 .....	Stack Height Requirements .....	4/18/83	09/21/83, 48 FR 42979.	
<b>Regulation No. 10 Control of Sulfur Dioxide Emissions—Kent and Sussex Counties</b>				
Section 1 .....	Requirements for Existing Sources of Sulfur Dioxide.	1/7/72	05/31/72, 37 FR 10842.	
Section 2 .....	Requirements for New Sources of Sulfur Dioxide.	5/28/74	03/23/76, 41 FR 12010.	
<b>Regulation No. 11 Carbon Monoxide Emissions from Industrial Process Operations—New Castle County</b>				
Section 1 .....	General Provisions .....	5/28/74	03/23/76, 41 FR 12010.	
Section 2 .....	Restrictions on Petroleum Refining Operations	1/7/72	05/31/72, 37 FR 10842 .....	Citation revised 3/23/76, 41 FR 12010.
<b>Regulation No. 12 Control of Nitrogen Oxide Emissions</b>				
Section 1 .....	Applicability .....	11/24/93	6/14/01, 66 FR 32234.	
Section 2 .....	Definitions .....	11/24/93	6/14/01, 66 FR 32234.	
Section 3 .....	Standards .....	11/24/93	6/14/01, 66 FR 32234.	
Section 4 .....	Exemptions .....	11/24/93	6/14/01, 66 FR 32234.	
Section 5 .....	Alternative and Equivalent RACT Determination.	11/24/93	6/14/01, 66 FR 32234.	
Section 6 .....	RACT Proposals .....	11/24/93	6/14/01, 66 FR 32234.	



## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 7 .....	Compliance, Certification, Recordkeeping, and Reporting Requirements.	11/24/93	6/14/01, 66 FR 32234.	
<b>Regulation No. 1113 Open Burning (Formerly Regulation No. 13)</b>				
Section 1.0 .....	Purpose .....	04/11/07	9/20/07, 72 FR 53686.	
Section 2.0 .....	Applicability .....	04/11/07	9/20/07, 72 FR 53686.	
Section 3.0 .....	Definitions .....	04/11/07	9/20/07, 72 FR 53686.	
Section 4.0 .....	Prohibitions and Related Provisions .....	04/11/07	9/20/07, 72 FR 53686.	
Section 5.0 .....	Season and Time Restrictions .....	04/11/07	9/20/07, 72 FR 53686.	
Section 6.0 .....	Allowable Open Burning .....	04/11/07	9/20/07, 72 FR 53686.	
Section 7.0 .....	Exemptions .....	04/11/07	9/20/07, 72 FR 53686.	
<b>Regulation No. 14 Visible Emissions</b>				
Section 1 .....	General Provisions .....	7/17/84	07/02/85, 50 FR 27244.	
Section 2 .....	Requirements .....	7/17/84	07/02/85, 50 FR 27244.	
Section 3 .....	Alternate Opacity Requirements .....	7/17/84	07/02/85, 50 FR 27244.	
Section 4 .....	Compliance with Opacity Standards .....	7/17/84	07/02/85, 50 FR 27244.	
<b>Regulation No. 15 Air Pollution Alert and Emergency Plan</b>				
Section 1 .....	General Provisions .....	1/7/72	05/31/72, 37 FR 10842.	
Section 2 .....	Stages and Criteria .....	3/29/88	04/06/94, 59 FR 16140.	
Section 3 .....	Required Actions .....	1/7/72	05/31/72, 37 FR 10842 .....	Delaware removed the word "standby" from Table III, section 3B, effective 5/28/74, but did not submit as a SIP revision.
Section 4 .....	Standby Plans .....	1/7/72	05/31/72, 37 FR 10842.	
<b>Regulation No. 16 Sources Having an Interstate Air Pollution Potential</b>				
Section 1 .....	General Provisions .....	1/7/72	05/31/72, 37 FR 10842 .....	Delaware revised provision effective 5/28/74, but did not submit as a SIP revision.
Section 2 .....	Limitations .....	1/7/72	05/31/72, 37 FR 10842.	
Section 3 .....	Requirements .....	1/7/72	05/31/72, 37 FR 10842.	
<b>Regulation No. 17 Source Monitoring, Recordkeeping and Reporting</b>				
Section 1 .....	Definitions and Administrative Principles .....	1/11/93	02/28/96, 61 FR 7453.	
Section 2 .....	Sampling and Monitoring .....	7/17/84	07/02/85, 50 FR 27244 .....	Former SIP Sections 1 through 5 respectively; citation revised 2/28/96, 62 FR 7453.
Section 3 .....	Minimum Emission Monitoring Requirements for Existing Sources.	1/10/77	8/25/81, 46 FR 43150.	
Section 4 .....	Performance Specifications .....	1/11/93	9/9/99, 64 FR 48961.	
Section 5 .....	Minimum Data Requirements .....	1/10/77	8/25/81, 46 FR 43150.	
Section 6 .....	Data Reduction .....	1/11/93	9/9/99, 64 FR 48961.	
Section 7 .....	Emission Statement .....	1/11/93	02/28/96, 61 FR 7453.	
<b>Regulation No. 23 Standards of Performance for Steel Plants: Electric Arc Furnaces</b>				
Section 1 .....	Applicability .....	12/2/77	07/30/79, 44 FR 44497 .....	Correction published 8/20/80, 45 FR 55422.
Section 2 .....	Definitions .....	04/18/83	09/21/83, 49 FR 39061.	
Section 3 .....	Standard for Particulate Matter .....	04/18/83	09/21/83, 49 FR 39061.	
Section 4 .....	Monitoring of Operations .....	12/2/77	07/30/79, 44 FR 44497 .....	Correction published 8/20/80, 45 FR 55422.
Section 5 .....	Test Methods and Procedures .....	12/2/77	07/30/79, 44 FR 44497 .....	Correction published 8/20/80, 45 FR 55422.
<b>Regulation No. 1124 Control of Volatile Organic Compound Emissions (Formerly Regulation No. 24)</b>				
Section 1 .....	General Provisions .....	1/11/93	5/3/95, 60 FR 21707.	
Section 2 .....	Definitions .....	1/11/02	11/14/03, 68 FR 64540.	
Section 3 .....	Applicability .....	1/11/93	5/3/95, 60 FR 21707.	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 4	Compliance Certification, Recordkeeping, and Reporting Requirements for Coating Sources.	11/29/94	01/26/96, 61 FR 2419.	
Section 5	Compliance Certification, Recordkeeping, and Reporting Requirements for Non-Coating Sources.	1/11/93	5/3/95, 60 FR 21707.	
Section 6	General Recordkeeping	1/11/93	5/3/95, 60 FR 21707.	
Section 7	Circumvention	1/11/93	5/3/95, 60 FR 21707.	
Section 8	Handling, Storage, and Disposal of Volatile Organic Compounds (VOCs).	11/29/94	01/26/96, 61 FR 2419.	
Section 9	Compliance, Permits, Enforceability	1/11/93	5/3/95, 60 FR 21707.	
Section 10	Aerospace Coatings	2/11/03	3/24/04, 69 FR 13737.	
Section 11	Mobile Equipment Repair and Refinishing	11/11/01	11/22/02, 67 FR 70315.	
Section 12	Surface Coating of Plastic Parts	11/29/94	01/26/96, 61 FR 2419.	
Section 13	Automobile and Light-Duty Truck Coating Operations.	1/11/93	5/3/95, 60 FR 21707.	
Section 14	Can Coating	1/11/93	5/3/95, 60 FR 21707.	
Section 15	Coil Coating	1/11/93	5/3/95, 60 FR 21707.	
Section 16	Paper Coating	1/11/93	5/3/95, 60 FR 21707.	
Section 17	Fabric Coating	1/11/93	5/3/95, 60 FR 21707.	
Section 18	Vinyl Coating	1/11/93	5/3/95, 60 FR 21707.	
Section 19	Coating of Metal Furniture	1/11/93	5/3/95, 60 FR 21707.	
Section 20	Coating of Large Appliances	1/11/93	5/3/95, 60 FR 21707.	
Section 21	Coating of Magnet Wire	11/29/94	01/26/96, 61 FR 2419.	
Section 22	Coating of Miscellaneous Metal Parts	1/11/93	5/3/95, 60 FR 21707.	
Section 23	Coating of Flat Wood Panelling	1/11/93	5/3/95, 60 FR 21707.	
Section 24	Bulk Gasoline Plants	1/11/93	5/3/95, 60 FR 21707.	
Section 25	Bulk Gasoline Terminals	11/29/94	01/26/96, 61 FR 2419.	
Section 26	Gasoline Dispensing Facility—Stage I Vapor Recovery.	1/11/02	11/14/03, 68 FR 64540.	
Section 27	Gasoline Tank Trucks	1/11/93	5/3/95, 60 FR 21707.	
Section 28	Petroleum Refinery Sources	1/11/93	5/3/95, 60 FR 21707.	
Section 29	Leaks from Petroleum Refinery Equipment	11/29/94	01/26/96, 61 FR 2419.	
Section 30	Petroleum Liquid Storage in External Floating Roof Tanks.	11/29/94	01/26/96, 61 FR 2419.	
Section 31	Petroleum Liquid Storage in Fixed Roof Tanks	11/29/94	01/26/96, 61 FR 2419.	
Section 32	Leaks from Natural Gas/Gasoline Processing Equipment.	11/29/94	01/26/96, 61 FR 2419.	
Section 33	Solvent Metal Cleaning and Drying	11/11/01	11/22/02, 67 FR 70315.	
Section 34	Cutback and Emulsified Asphalt	1/11/93	5/3/95, 60 FR 21707.	
Section 35	Manufacture of Synthesized Pharmaceutical Products.	11/29/94	01/26/96, 61 FR 2419.	
Section 36	Stage II Vapor Recovery	1/11/02	11/14/03, 65 FR 64540.	
Section 37	Graphic Arts Systems	11/29/94	01/26/96, 61 FR 2419.	
Section 38	Petroleum Solvent Dry Cleaners	1/11/93	5/3/95, 60 FR 21707.	
Section 39	Perchloroethylene Dry Cleaning	1/11/93	5/3/95, 60 FR 21707.	
Section 40	Leaks from Synthetic Organic Chemical, Polymer, and Resin Manufacturing Equipment.	1/11/93	5/3/95, 60 FR 21707.	
Section 41	Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins.	1/11/93	5/3/95, 60 FR 21707.	
Section 42	Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry.	1/11/93	5/3/95, 60 FR 21707.	
Section 43	Bulk Gasoline Marine Tank Vessel Loading Facilities.	11/29/94	01/26/96, 61 FR 2419.	
Section 44	Batch Processing Operations	11/29/94	01/26/96, 61 FR 2419.	
Section 45	Industrial Cleaning Solvents	11/29/94	01/26/96, 61 FR 2419.	
Section 46	Crude Oil Lightening Operations	05/11/07	9/13/07, 72 FR 52285	SIP effective date is 10/15/07.
Section 47	Offset Lithographic Printing	11/29/94	05/14/97, 62 FR 26399.	
Section 48	Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry.	11/29/94	01/26/96, 61 FR 2419.	
Section 49	Control of Volatile Organic Compound Emissions from Volatile Organic Liquid Storage Vessels.	11/29/94	01/26/96, 61 FR 2419.	
Section 50	Other Facilities that Emit Volatile Organic Compounds (VOCs).	11/29/94	03/12/97, 62 FR 11329	EPA effective date for Sections 50(a)(5) and 50(b)(3) is 5/1/98.
Appendix "A"	Test Methods and Compliance Procedures: General Provisions.	11/29/94	01/26/96, 61 FR 2419.	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Appendix "B" .....	Test Methods and Compliance Procedures: Determining the Volatile Organic Compound (VOC) Content of Coatings and Inks.	1/11/93	5/3/95, 60 FR 21707.	
Appendix "C" .....	Test Methods and Compliance Procedures: Alternative Compliance Methods for Surface Coating.	1/11/93	5/3/95, 60 FR 21707.	
Appendix "D" .....	Test Methods and Compliance Procedures: Emission Capture and Destruction or Removal Efficiency and Monitoring Requirements.	11/29/94	01/26/96, 61 FR 2419.	
Appendix "E" .....	Test Methods and Compliance Procedures: Determining the Destruction or Removal Efficiency of a Control Device.	1/11/93	5/3/95, 60 FR 21707.	
Appendix "F" .....	Test Methods and Compliance Procedures: Leak Detection Methods for Volatile Organic Compounds (VOCs).	1/11/93	5/3/95, 60 FR 21707.	
Appendix "G" .....	Performance Specifications for Continuous Emissions Monitoring of Total Hydrocarbons.	1/11/93	5/3/95, 60 FR 21707.	
Appendix "H" .....	Quality Control Procedures for Continuous Emission Monitoring Systems (CEMS).	1/11/93	5/3/95, 60 FR 21707.	
Appendix "I" .....	Method to Determine Length of Rolling Period for Liquid—Liquid Material Balance Method.	11/29/94	01/26/96, 61 FR 2419.	
Appendix "J" .....	Procedures for Implementation of Regulation Nos. Covering Stage II Vapor Recovery Systems for Gasoline Dispensing Facilities.	1/11/93	6/10/94, 59 FR 29956.	
Appendix "J1" .....	Certified Stage II Vapor Recovery Systems .....	1/11/93	6/10/94, 59 FR 29956.	
Appendix "J2" .....	Pressure Decay/Leak Test Procedure for Verification of Proper Functioning of Stage I & Stage II Vapor Recovery Equipment.	1/11/93	6/10/94, 59 FR 29956.	
Appendix "J3" .....	Dynamic Backpressure (Dry) Test and Liquid Blockage (Wet) Test Procedure for Verification of Proper Functioning of Stage II Vapor Balance Recovery Systems.	1/11/93	6/10/94, 59 FR 29956.	
Appendix "K" .....	Emission Estimation Methodologies .....	11/29/94	01/26/96, 61 FR 2419.	
Appendix "L" .....	Method to Determine Total Organic Carbon for Offset Lithographic Solutions.	11/29/94	01/26/96, 61 FR 2419.	
Appendix "M" .....	Test Method for Determining the Performance of Alternative Cleaning Fluids.	11/29/94	01/26/96, 61 FR 2419.	

## Regulation No. 25 Requirements for Preconstruction Review

Section 1 .....	General Provisions .....	1/1/93 (As Revised 5/1/99)	2/7/01, 66 FR 9211 .....	Excluding §§ 1.2, 1.6, 1.9(L), 1.9(M), 1.9(N), 1.9(O), which relate to Prevention of Significant Deterioration.
Section 2 .....	Emission Offset Provisions (EOP) .....	1/1/93 (As Revised 5/1/99)	2/7/01, 66 FR 9211.	
Section 3 .....	Prevention of Significant Deterioration of Air Quality.	5/15/90	7/27/93, 58 FR 40065.	

## Regulation No. 26 Motor Vehicle Emissions Inspection Program

Section 1 .....	Applicability and Definitions .....	2/12/01	11/27/03, 68 FR 66343 .....	Regulation No. 26 provisions apply to Sussex County only, effective November 1, 1999.
Section 2 .....	General Provisions .....	2/12/01	11/27/03, 68 FR 66343.	
Section 3 .....	Registration Requirement .....	5/9/85	12/08/86, 51 FR 44068.	
Section 4 .....	Exemptions .....	2/12/01	11/27/03, 68 FR 66343.	
Section 5 .....	Enforcement .....	7/6/82	10/17/83, 48 FR 46986	
Section 6 .....	Compliance, Waivers, Extensions of Time .....	2/12/01	11/27/03, 68 FR 66343.	
Section 7 .....	Inspection Facility Requirements .....	7/6/82	10/17/83, 48 FR 46986.	
Section 8 .....	Certification of Motor Vehicle Officers .....	7/6/82	10/17/83, 48 FR 46986.	
Section 9 .....	Calibration and Test Procedures and Approved Equipment.	2/12/01	11/27/03, 68 FR 66343.	
Technical Memorandum 1.	Delaware Division of Motor Vehicles Vehicle Exhaust Emissions Test.	2/12/01	1/27/03, 68 FR 66343.	

## Regulation No. 27 Stack Heights

Section 1 .....	General Provisions .....	4/18/83	09/21/83, 48 FR 42979.	
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## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 2 .....	Definitions Specific to this Regulation No .....	12/7/88	6/29/90, 55 FR 26689.	
Section 3 .....	Requirements for Existing and New Sources ...	2/18/87	06/29/90, 55 FR 26689.	
Section 4 .....	Public Notification .....	2/18/87	06/29/90, 55 FR 26689.	

## Regulation No. 31 Low Enhanced Inspection and Maintenance Program

Section 1 .....	Applicability .....	10/11/01	11/27/03, 68 FR 66343.	
Section 2 .....	Low Enhanced I/M Performance Standard .....	10/11/01	1/27/03, 68 FR 66343.	
Section 3 .....	Network Type and Program Evaluation .....	10/11/01	11/27/03, 68 FR 66343.	
Section 4 .....	Test Frequency and Convenience .....	6/11/99	9/30/99, 64 FR 52657.	
Section 5 .....	Vehicle Coverage .....	10/11/01	1/27/03, 68 FR 66343.	
Section 6 .....	Test Procedures and Standards .....	10/11/01	11/27/03, 68 FR 66343.	
Section 7 .....	Waivers and Compliance via Diagnostic In- spection.	10/11/01	11/27/03, 68 FR 66343.	
Section 8 .....	Motorist Compliance Enforcement .....	10/11/01	11/27/03, 68 FR 66343.	
Section 9 .....	Enforcement Against Operators and Motor Ve- hicle Technicians.	10/11/01	11/27/03, 68 FR 66343.	
Section 10 .....	Improving Repair Effectiveness .....	8/13/98	9/30/99, 64 FR 52657.	
Section 11 .....	Compliance with Recall Notices .....	8/13/98	9/30/99, 64 FR 52657.	
Section 12 .....	On-Road Testing .....	8/13/98	9/30/99, 64 FR 52657.	
Section 13 .....	Implementation Deadlines .....	10/11/01	11/27/03, 68 FR 66343.	
Appendix 1(d) .....	Commitment to Extend the I/M Program to the Attainment Date From Secretary Tulou to EPA Administrator W. Michael McCabe.	8/13/98	9/30/99, 64 FR 52657.	
Appendix 3(a)(7) .....	Exhaust Emission Limits According to Model Year.	8/13/98	9/30/99, 64 FR 52657.	
Appendix 3(c)(2) .....	VMASTM Test Procedure .....	6/11/99	9/30/99, 64 FR 52657.	
Appendix 4(a) .....	Sections from Delaware Criminal and Traffic Law Manual.	8/13/98	9/30/99, 64 FR 52657.	
Appendix 5(a) .....	Division of Motor Vehicles Policy on Out of State Renewals.	8/13/98	9/30/99, 64 FR 52657.	
Appendix 5(f) .....	New Model Year Clean Screen .....	10/11/01	11/27/03, 68 FR 66343.	
Appendix 6(a) .....	Idle Test Procedure .....	10/11/01	1/27/03, 68 FR 66343.	
Appendix 6(a)(5) .....	Vehicle Emission Repair Report Form .....	8/13/98	9/30/99, 64 FR 52657.	
Appendix 6(a)(8) .....	Evaporative System Integrity (Pressure) Test ...	10/11/01	11/27/03, 68 FR 66343.	
Appendix 6(a)(9) .....	On-board Diagnostic Test Procedure, OBD II Test Procedure.	10/11/01	11/27/03, 68 FR 66343.	
Appendix 7(a) .....	Emission Repair Technician Certification Proc- ess.	8/13/98	9/30/99, 64 FR 52657.	
Appendix 8(a) .....	Registration Denial System Requirements Defi- nition.	8/13/98	9/30/99, 64 FR 52657.	
Appendix 9(a) .....	Enforcement Against Operators and Inspectors	10/11/01	11/27/03, 68 FR 66343.	

## Regulation No. 1132 Transportation Conformity

Section 1 .....	Purpose .....	11/11/07	4/22/08, 73 FR 21538 .....	Added Section.
Section 2 .....	Definitions .....	11/11/07	4/22/08, 73 FR 21538 .....	Added Section.
Section 3 .....	Consultation .....	11/11/07	4/22/08, 73 FR 21538 .....	Added Section.
Section 4 .....	Written Commitments, for Control and, Mitiga- tion Measures.	11/11/07	4/22/08, 73 FR 21538 .....	Added Section.

## Regulation No. 35 Conformity of General Federal Actions to the State Implementation Plans

Section 1 .....	Purpose .....	8/14/96	7/15/97, 62 FR 37722.	
Section 2 .....	Definitions .....	8/14/96	07/15/97, 62 FR 37722.	
Section 3 .....	Applicability .....	8/14/96	07/15/97, 62 FR 37722.	
Section 4 .....	Conformity Analysis .....	8/14/96	07/15/97, 62 FR 37722.	
Section 5 .....	Reporting Requirements .....	8/14/96	07/15/97, 62 FR 37722.	
Section 6 .....	Public Participation and Consultation .....	8/14/96	07/15/97, 62 FR 37722.	
Section 7 .....	Frequency of Conformity Determinations .....	8/14/96	07/15/97, 62 FR 37722.	
Section 8 .....	Criteria for Determining Conformity of General Federal Actions.	8/14/96	07/15/97, 62 FR 37722.	
Section 9 .....	Procedures for Conformity Determinations of General Federal Actions.	8/14/96	07/15/97, 62 FR 37722.	
Section 10 .....	Mitigation of Air Quality Impacts .....	8/14/96	07/15/97, 62 FR 37722.	
Section 11 .....	Savings Provision .....	8/14/96	07/15/97, 62 FR 37722.	

Regulation No. 37 NO<sub>x</sub> Budget Program

Section 1 .....	General Provisions .....	12/11/99	3/9/00, 65 FR 12481.	
Section 2 .....	Applicability .....	12/11/99	3/9/00, 65 FR 12481.	
Section 3 .....	Definitions .....	12/11/99	3/9/00, 65 FR 12481.	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 4 .....	Allowance Allocation .....	12/11/99	3/9/00, 65 FR 12481.	
Section 5 .....	Permits .....	12/11/99	3/9/00, 65 FR 12481.	
Section 6 .....	Establishment of Compliance Accounts .....	12/11/99	3/9/00, 65 FR 12481.	
Section 7 .....	Establishment of General Accounts .....	12/11/99	3/9/00, 65 FR 12481.	
Section 8 .....	Opt In Provisions .....	12/11/99	3/9/00, 65 FR 12481.	
Section 9 .....	New Budget Source Provisions .....	12/11/99	3/9/00, 65 FR 12481.	
Section 10 .....	NO <sub>x</sub> Allowance Tracking System (NATS) .....	12/11/99	3/9/00, 65 FR 12481.	
Section 11 .....	Allowance Transfer .....	12/11/99	3/9/00, 65 FR 12481.	
Section 12 .....	Allowance Banking .....	12/11/99	3/9/00, 65 FR 12481.	
Section 13 .....	Emission Monitoring .....	12/11/99	3/9/00, 65 FR 12481.	
Section 14 .....	Recordkeeping .....	12/11/99	3/9/00, 65 FR 12481.	
Section 15 .....	Emissions Reporting .....	12/11/99	3/9/00, 65 FR 12481.	
Section 16 .....	End-of-Season Reconciliation .....	12/11/99	3/9/00, 65 FR 12481.	
Section 17 .....	Compliance Certification .....	12/11/99	3/9/00, 65 FR 12481.	
Section 18 .....	Failure to Meet Compliance Requirements .....	12/11/99	3/9/00, 65 FR 12481.	
Section 19 .....	Program Audit .....	12/11/99	3/9/00, 65 FR 12481.	
Section 20 .....	Program Fees .....	12/11/99	3/9/00, 65 FR 12481.	
Appendix "A" .....	NO <sub>x</sub> Budget Program .....	12/11/99	3/9/00, 65 FR 12481.	

Regulation No. 39 Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program

Section 1 .....	Purpose .....	12/11/00	5/17/01, 66 FR 27459.	
Section 2 .....	Emission Limitation .....	12/11/00	5/17/01, 66 FR 27459.	
Section 3 .....	Applicability .....	12/11/00	5/17/01, 66 FR 27459.	
Section 4 .....	Definitions .....	12/11/00	5/17/01, 66 FR 27459.	
Section 5 .....	General Provisions .....	12/11/00	5/17/01, 66 FR 27459.	
Section 6 .....	NO <sub>x</sub> Authorized Account Representative for NO <sub>x</sub> Budget Sources.	12/11/00	5/17/01, 66 FR 27459.	
Section 7 .....	Permits .....	12/11/00	5/17/01, 66 FR 27459.	
Section 8 .....	Monitoring and Reporting .....	12/11/00	5/17/01, 66 FR 27459.	
Section 9 .....	NATS .....	12/11/00	5/17/01, 66 FR 27459.	
Section 10 .....	NO <sub>x</sub> Allowance Transfers .....	12/11/00	5/17/01, 66 FR 27459.	
Section 11 .....	Compliance Certification .....	12/11/00	5/17/01, 66 FR 27459.	
Section 12 .....	End-of-Season Reconciliation .....	12/11/00	5/17/01, 66 FR 27459.	
Section 13 .....	Failure to Meet Compliance, Requirements .....	12/11/00	5/17/01, 66 FR 27459.	
Section 14 .....	Individual Unit Opt-Ins .....	12/11/00	5/17/01, 66 FR 27459.	
Section 15 .....	General Accounts .....	12/11/00	5/17/01, 66 FR 27459.	
Appendix "A" .....	Allowance Allocations to NO <sub>x</sub> Budget Units Under Section 3(a)(1)(i) and 3(a)(1)(ii) of Regulation No. 39.	12/11/00	5/17/01, 66 FR 27459.	
Appendix "B" .....	Regulation No. 37—Regulation No. 39 Program Transition.	12/11/00	5/17/01, 66 FR 27459.	

## Regulation No. 40 Delaware's National Low Emission Vehicle (NLEV) Regulation

Section 1 .....	Applicability .....	10/11/99	12/28/99, 64 FR 72564 .....	Issued on September 1, 1999 by Secretary's Order No. 99-A-0046.
Section 2 .....	Definitions .....	10/11/99	12/28/99, 64 FR 72564.	
Section 3 .....	Program Participation .....	10/11/99	12/28/99, 64 FR 72564.	

## Regulation No. 41 Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products

Section 1 .....	Architectural and Industrial Maintenance Coatings.	03/11/02	11/22/02, 67 FR 70315.	
Section 2 .....	Commercial Products .....	01/11/02	11/22/02, 67 FR 70315.	
Section 3 .....	Portable Fuel Containers .....	11/11/01	11/22/02, 67 FR 70315.	

## Regulation No. 42 Specific Emission Control Requirements

Section 1 .....	Control of NO <sub>x</sub> Emissions from Industrial Boilers.	12/11/01	11/22/02, 67 FR 70315.	
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## Regulation No. 1144 Control of Stationary Generator Emissions

Section 1.0 .....	General .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 2.0 .....	Definitions .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 3.0 .....	Emissions .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 4.0 .....	Operating Requirements .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 5.0 .....	Fuel Requirements .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 6.0 .....	Recordkeeping and Reporting .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 7.0 .....	Emissions Certification, Compliance, and Enforcement.	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 8.0 .....	Credit for Concurrent Emissions Reductions ....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
Section 9.0 .....	DVFA Member Companies .....	01/11/06	4/29/08, 73 FR 23101 .....	Added Section.
<b>Regulation No. 1146 Electric Generating Unit (EGU) Multi-Pollutant Regulation No.</b>				
Section 1.0 .....	Preamble .....	12/11/06	8/28/08, 73 FR 50723 .....	Except for provisions pertaining to mercury emissions.
Section 2.0 .....	Applicability .....	12/11/06	8/28/08, 73 FR 50723 .....	Except for provisions pertaining to mercury emissions.
Section 3.0 .....	Definitions .....	12/11/06	8/28/08, 73 FR 50723 .....	Except for provisions pertaining to mercury emissions.
Section 4.0 .....	NO <sub>x</sub> Emissions Limitations .....	12/11/06	8/28/08, 73 FR 50723.	
Section 5.0 .....	SO <sub>2</sub> Emissions Limitations .....	12/11/06	8/28/08, 73 FR 50723.	
Section 7.0 .....	Recordkeeping and Reporting .....	12/11/06	8/28/08, 73 FR 50723 .....	Except for provisions pertaining to mercury emissions.
Section 8.0 .....	Compliance Plan .....	12/11/06	8/28/08, 73 FR 50723 .....	Except for provisions pertaining to mercury emissions.
Section 9.0 .....	Penalties .....	12/11/06	8/28/08, 73 FR 50723 .....	Except for provisions pertaining to mercury emissions.
Table I .....	Annual NO <sub>x</sub> Mass Emissions Limits .....	12/11/06	8/28/08, 73 FR 50723.	
Table II .....	Annual SO <sub>2</sub> Mass Emissions Limits .....	12/11/06	8/28/08, 73 FR 50723.	
<b>Regulation No. 1148 Control of Stationary Combustion Turbine Electric Generating Unit Emissions</b>				
Section 1.0 .....	Purpose .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.
Section 2.0 .....	Applicability .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.
Section 3.0 .....	Definitions .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.
Section 4.0 .....	NO <sub>x</sub> Emissions Limitations .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.
Section 5.0 .....	Monitoring and Reporting .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.
Section 6.0 .....	Recordkeeping .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.
Section 7.0 .....	Penalties .....	7/11/07	11/10/08, 73 FR 66554 .....	New Section.

(d) EPA-approved State source-specific requirements.

## EPA-APPROVED DELAWARE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Additional explanation
Getty Oil Co .....	75-A-4 .....	8/5/75	3/7/79, 44 FR 12423	52.420(c)(11).
Phoenix Steel Co.—Electric Arc Furnaces Charging & Tapping #2.	77-A-8 .....	12/2/77	7/30/79, 44 FR 25223	52.420(c)(12).
Delmarva Power & Light—Indian River .....	89-A-7/APC 89/197	2/15/89	1/22/90, 55 FR 2067	52.420(c)(38).
SPI Polyols, Inc. ....	Secretary's Order No. 2000-A-0033.	7/11/00	6/14/01, 66 FR 32231	Polyhydrate Alcohol's Catalyst Regenerative Process—Approved NO <sub>x</sub> RACT Determination.
Citisteel .....	Secretary's Order No. 2000-A-0033.	7/11/00	6/14/01, 66 FR 32231	Electric Arc Furnace—Approved NO <sub>x</sub> RACT Determination.
General Chemical Corp .....	Secretary's Order No. 2000-A-0033.	7/11/00	6/14/01, 66 FR 32231	(1) Sulfuric Acid Process & Interstage Absorption System. (2) Metallic Nitrite Process—Approved NO <sub>x</sub> RACT Determinations.

(e) EPA-approved non-regulatory and quasi-regulatory material.



Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Commitment to adopt a clean fuel fleet program.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	2/26/93 .....	9/29/93, 58 FR 50846.	52.422(b).
1990 Base Year Emissions Inventory ...	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	5/27/94 .....	1/24/96, 61 FR 1838.	52.423, VOC, CO, NO <sub>x</sub> .
15% Rate of Progress Plan .....	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	2/17/95 .....	10/12/99, 64 FR 55139.	52.426(a).
Post-1996 Rate of Progress Plan & contingency measures.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	12/29/97, 6/17/99, 2/3/00, 12/20/00.	10/29/01, 66 FR 54598.	52.426(b).
Ozone Attainment Plan Demonstration & enforceable commitments.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	5/22/98, 10/8/98, 1/24/00, 12/20/00, 10/9/01, 10/29/01.	10/29/00, 66 FR 54598.	52.426(c).
Mobile budgets .....	Kent & New Castle Counties .....	1/5/98 (rec'd); 5/28/98 (rec'd); 2/3/00, 12/20/00.	10/29/01, 66 FR 54598.	52.426(d), (e).
Photochemical Assessment Monitoring Stations (PAMS) Program.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	3/24/94 .....	12/5/03, 68 FR 67948.	52.430.
Small Business stationary source technical and environmental compliance assistance program.	Statewide .....	5/16/95 .....	9/11/95, 60 FR 47081.	52.460.
Commitment to establish an ambient air quality monitoring network.	Statewide .....	3/19/80 .....	5/17/94, 59 FR 25771.	52.465(c)(15).
Commitment to use available grants and funds to provide for basic transportation needs.	New Castle County .....	8/15/79 .....	5/15/81, 46 FR 26767.	52.465(c)(19).
Executive order pertaining to financial disclosures by State officials [CAA Section 128].	Statewide .....	8/7/78 .....	9/30/81, 46 FR 47777.	52.465(c)(22).
Lead (Pb) SIP .....	Statewide .....	12/23/80 .....	9/29/81, 46 FR 47544.	52.465(c)(24).
Procedures to notify EPA of PSD sources locating within 100 km of a Class I PSD area.	Statewide .....	2/27/81 .....	9/10/81, 46 FR 45160.	52.465(c)(29).
RACT under the 8-Hour NAAQS .....	Delaware (Statewide) .....	10/2/06 .....	3/15/82, 47 FR 11014.	
			7/23/08, 73 FR 42681.	

[FR Doc. E9-8796 Filed 4-16-09; 8:45 am]

**BILLING CODE**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Docket No. EPA-R02-OAR-2008-0659, FRL-8757-6]

**Approval and Promulgation of Implementation Plans; New Jersey; Diesel Idling Rule Revisions**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan revision submitted by New Jersey to revise its rules regarding the idling of diesel-powered vehicles. Specifically, the State's implementation plan revision revises the exceptions to and exemptions from the State's existing three-minute idling rule. The intended effect of this action

is to approve, as consistent with section 110(a)(2) of the Clean Air Act, a control strategy that will help New Jersey achieve attainment of the National Ambient Air Quality Standards for ozone and fine particulate matter.

**DATES:** *Effective Date:* This rule is effective on May 18, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2008-0659. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. This

Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

**FOR FURTHER INFORMATION CONTACT:** Matthew Laurita, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3895.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Description of the State Implementation Plan (SIP) Revision
- II. Comments on the Proposed Rulemaking
- III. Final EPA Action
- IV. Statutory and Executive Order Reviews

**I. Description of the State Implementation Plan (SIP) Revision**

**A. What did New Jersey submit?**

On July 2, 2007, New Jersey promulgated amendments to Title 7, Chapter 27, Subchapter 14, "Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles," of the New Jersey Administrative Code, that limit the amount of time that engines of diesel-powered motor vehicles may idle.

New Jersey's original diesel idling rule, adopted on December 2, 1985, prohibits any person from allowing the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes. However, it also provides exceptions to and exemptions from the three-minute limit. New Jersey's July 2007 rule revision adds, deletes, and revises certain exceptions and exemptions, with the overall goal of further limiting air emissions from idling diesel-powered vehicles within New Jersey. This revised rule became effective on July 2, 2007.

On September 13, 2007, New Jersey submitted a state implementation plan (SIP) revision to EPA, seeking federal approval of its revised diesel idling regulation. EPA has determined that New Jersey's SIP revision submittal meets the requirements of section 110 of the Act. EPA's approval of New Jersey's diesel idling rule makes it Federally-enforceable, further ensuring that planned emission reductions will continue to take place. For further information on New Jersey's diesel idling rule see the October 2, 2008, Proposed Rulemaking (73 FR 57272).

## II. Comments on the Proposed Rulemaking

EPA received no comments on the Proposed Rulemaking, published in the October 2, 2008, **Federal Register** (73 FR 57272).

## III. Final EPA Action

EPA is approving the revisions to New Jersey's diesel idling rule as part of New Jersey's ozone and particulate matter SIPs. Approval of New Jersey's revised diesel idling rule further ensures that planned emissions reductions attributable to this program will be achieved. The State's revised idling rule was promulgated on July 2, 2007, effective on July 2, 2007, and is codified in Title 7, Chapter 27, Subchapter 14 of the New Jersey Administrative Code, sections 14.1 ("Definitions"), 14.2 ("Applicability") and 14.3 ("General prohibitions").

## IV. Statutory and Executive Order Reviews

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

additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 2, 2009.

Barbara A. Finazzo,

Acting Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(87) to read as follows:

### § 52.1570 Identification of plan.

*	*	*	*	*
(c)	*	*	*	*
*	*	*	*	*

(87) Revisions to the State Implementation Plan submitted on September 13, 2007, by the New Jersey Department of Environmental Protection which consists of the State's revised diesel idling rule.

(i) Incorporation by reference:

(A) Regulation Subchapter 14 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles," section 14.1, effective on July 2, 2007, section 14.2, effective on September 15,



1997, and section 14.3, effective on July 2, 2007.

\* \* \* \* \*

■ 3. Section 52.1605 is amended by revising the entry for Subchapter 14 under Title 7, Chapter 27 to read as follows:

§ 52.1605 EPA-approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
Title 7, Chapter 27.			
Subchapter 14, "Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles".			On September 15, 1997, section 14.2 was re-numbered to 14.6. The State did not submit this change as a SIP revision. Therefore, the July 1, 1985, version of section 14.2 will continue to be the EPA-approved regulation.
Sections 14.1–14.3	July 1, 1985	June 13, 1986.	
Section 14.1	July 2, 2007	April 17, 2009 [Insert Federal Register page citation].	
Section 14.2	September 15, 1997	April 17, 2009 [Insert Federal Register page citation].	
Section 14.3	July 2, 2007	April 17, 2009 [Insert Federal Register page citation].	

[FR Doc. E9–8762 Filed 4–16–09; 8:45 am]  
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2009–0181; FRL–8892–8]

### Approval and Promulgation of Implementation Plans; Georgia; Enhanced Inspection and Maintenance Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the State Implementation Plan (SIP) revision submitted by Georgia Department of Natural Resources (GA DNR) through the Georgia Environmental Protection Division (GA EPD) on February 13, 2009. The revisions include minor changes to Georgia's Air Quality Rules found at Chapter 391–3–20–17, pertaining to rules for Enhanced Inspection and Maintenance (I/M). Specifically, the changes update the amount of repair costs that may qualify for a waiver. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule is effective June 16, 2009, without further notice, unless EPA receives adverse comment by May 18, 2009. If adverse comment is received, EPA will publish a timely

withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0181 by one of the following methods:

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

2. *E-mail:* [benjamin.lynora@epa.gov](mailto:benjamin.lynora@epa.gov).

3. *Fax:* (404) 562–9019.

4. *Mail:* "EPA–R04–OAR–2009–0181," Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynora Benjamin, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. "EPA–R04–OAR–2009–0181." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided,

unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access," which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some

information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mohammad Madjdinasab, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9026. Mr. Madjdinasab can also be reached via electronic mail at [madjdinasab.mohammad@epa.gov](mailto:madjdinasab.mohammad@epa.gov). For information relating to the Georgia State SIP, contact Ms. Stacy Harder. Ms. Harder may be reached at (404) 562-9042, or [harder.stacy@epa.gov](mailto:harder.stacy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Background
- II. Analysis of the State's Submittal
- III. Final Action
- IV. Statutory and Executive Order Reviews

**I. Background**

The I/M program is a way to ensure that vehicles are maintained properly and verify that the emission control system is operating correctly, in order to reduce vehicle-related emissions. Enhanced I/M was required for 1-hour ozone nonattainment areas classified as serious nonattainment and above, under the CAA. Georgia implemented an enhanced I/M program for the 13-county Atlanta 1-hour ozone area in 1996 to fulfill the requirements under the CAA for a serious nonattainment area. Georgia was able to demonstrate attainment with the 1-hour ozone standard in 2005 for the Atlanta 1-hour ozone nonattainment area (referred to hereafter as the "Atlanta area"). However, on April 30, 2004, the Atlanta area was designated nonattainment for the 8-hour ozone standard (69 FR

23857), and the area was expanded from 13 to 20 counties. The Atlanta area was first classified as a marginal nonattainment area and later reclassified to a moderate nonattainment area on March 6, 2008 (73 FR 12013).

The enhanced I/M program is no longer a required measure for Atlanta for the 8-hour ozone standard pursuant to the CAA because the area is now classified as a moderate non-attainment area (73 FR 12013). However, the enhanced I/M program was approved into the SIP for the 1-hour ozone standard and must remain in the SIP until such time that the State removes the requirement, pursuant to section 110(l) of the CAA. On February 13, 2009, GA EPD provided its annual submission to update the waiver provision related to its enhanced I/M rule. This submission was provided to satisfy 40 CFR 51.360(a)(7). Specifically, 40 CFR 51.360(a)(7) states "Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least \$450 in repairs to qualify for a waiver. The I/M program shall provide that the \$450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, States may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard."

**II. Analysis of the State's Submittal**

In accordance with 40 CFR 51.360(a)(7), Rule 391-3-20-.17 "Waivers" was revised effective January 1, 2009, to adjust the minimum amount that must be paid on qualifying repairs after a vehicle fails an initial test in order to be granted a waiver from complying with the inspection requirements for the corresponding registration period. A minimum repair cost of \$450 must be made on qualifying repairs after the vehicle fails the initial test. The \$450 level will be adjusted each year to reflect the change in the Consumer Price Index after 1989. These revisions became State effective on December 28, 2008. In the February 13, 2009, submittal, State of Georgia stated that this change will not have a negative impact on small business owners that conduct vehicle inspections. Further, there is no change in cost to the general public, as these fees used to be adjusted annually utilizing the Consumer Price Index and submitted to EPA for

approval annually. GA EPD is simply making this SIP revision to avoid the submission of minimum required repair cost and revising their SIP annually.

**III. Final Action**

EPA is taking direct final action to approve the aforementioned revisions, specifically, Chapter 391-30-20-.17 Subparagraph (2)(a) into the Georgia SIP. These revisions submitted by GA EPD on February 13, 2009, are consistent with CAA requirements, and EPA policy and guidance.

EPA is publishing this rule without prior proposal because the agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 16, 2009 without further notice unless the Agency receives adverse comments by May 18, 2009.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 16, 2009 and no further action will be taken on the proposed rule.

**IV. Statutory and Executive Order Reviews**

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in an Indian

country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal laws.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are

encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds.

Dated: April 3, 2009.  
**Beverly H. Banister,**  
*Acting Regional Administrator, Region 4.*

**PART 52—[AMENDED]**

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

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

**Subpart L—Georgia**

- 2. Section 52.570(c) is amended by revising the entry for "391-3-20" to read as follows:

**§ 52.570 Identification of plan.**  
 \* \* \* \* \*  
 (c) \* \* \*

**EPA-APPROVED GEORGIA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Chapter 52 Attainment and Maintenance of the National Ambient Air Quality Standards</b>				
391-3-20 .....	Enhanced Inspection and Maintenance .....	12/28/2008	04/17/2009	[Insert citation of publication].

\* \* \* \* \*  
 [FR Doc. E9-8784 Filed 4-16-09; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 271**  
**[EPA-R05-RCRA-2008-0712; FRL-8789-6]**  
**Wisconsin: Final Authorization of State Hazardous Waste Management Program Revision**  
**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is granting Wisconsin final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The agency published a proposed rule on November 25, 2008 at 73 FR 71583 and provided for public comment. The public comment period ended on December 26, 2008. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's

changes. This final rule authorizes Wisconsin for new regulations which they have not been previously authorized for.

**DATES:** The final authorization will be effective on April 17, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-RCRA-2008-0712. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some of the 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 at <http://www.regulations.gov> or in hard copy. You may view and copy Wisconsin's application from 9 a.m. to 4 p.m. at the following addresses: U.S. EPA, Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Jean Gromnicki (312) 886-6162; or Wisconsin Department of Natural Resources, 101 S. Webster Street, Madison, Wisconsin, contact: Patricia Chabot (608) 264-6015.

**FOR FURTHER INFORMATION CONTACT:** Jean Gromnicki, Wisconsin Regulatory Specialist, U.S. EPA, Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6162, e-mail [gromnicki.jean@epa.gov](mailto:gromnicki.jean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must

change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in This Rule?**

We conclude that Wisconsin's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Wisconsin final authorization to operate its hazardous waste program with the changes described in the authorization application. Wisconsin has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Wisconsin, including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of This Authorization Decision?**

The effect of this decision is that a facility in Wisconsin subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Wisconsin has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

1. Do inspections, and require monitoring, tests, analyses or reports;
2. Enforce RCRA requirements and suspend or revoke permits;

3. Take enforcement actions regardless of whether the State has taken its own actions.

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

**D. Proposed Rule**

On November 25, 2008 (73 FR 71583), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Wisconsin's hazardous waste program and opened our decision to public comment. The agency received no comments on this proposal.

**E. What Has Wisconsin Previously Been Authorized for?**

Wisconsin initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3783) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on May 23, 1989, effective June 6, 1989 (54 FR 15029), on November 22, 1989, effective January 22, 1990 (54 FR 48243), on April 24, 1992, effective April 24, 1992 (57 FR 15029), on June 2, 1993, effective August 2, 1993 (58 FR 31344), on August 4, 1994, effective October 4, 1994 (59 FR 39971), on August 5, 1999, effective October 4, 1999 (64 FR 42630), and on June 26, 2002, effective June 26, 2002 (67 FR 43002).

**F. What Changes Are We Authorizing With This Action?**

On April 29, 2008, Wisconsin submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We have determined that Wisconsin's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we are granting Wisconsin final authorization for the following program changes:

TABLE 1—WISCONSIN'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Technical Amendments to the Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste, Checklist 137.1.	January 3, 1995, 60 FR 242.	NR 660.30, 660.31, 660.32, 660.33, 661.02, 664.0001, 665.0001, 266.023, 266.100, 266 Appendix XIII, NR 668.01, 668.02, 668.07, 668.09, 668.38, 668.40, 668.41, 668.42, 668.43, 668.45, 668.46, 668.48, 668 Appendix IV, 668 Appendix V, 668 Appendix X, Effective August 1, 2006.

TABLE 1—WISCONSIN'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction, Checklist 140.1.	April 17, 1995, 60 FR 19165.	NR 661.03, 661.32, 661.33, 661 Appendix VII, 661 Appendix VIII, Effective August 1, 2006.
As amended, Checklist 140.2 .....	May 12, 1995, 60 FR 25619.	
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes and Spent Potliners, Checklist 151.1.	April 8, 1996, 61 FR 15660	NR 668.01, 668.02, 668.03, 668.07, 668.08, 668.09, 668.39, 668.40, 668.42, 668.44, 668.48, 668 Appendix XI, Effective August 1, 2006.
As amended, Checklist 151.2 .....	April 30, 1996, 61 FR 19117.	
As amended, Checklist 151.3 .....	June 28, 1996, 61 FR 33680.	
As amended, Checklist 151.4 .....	July 10, 1996, 61 FR 36419.	
As amended, Checklist 151.5 .....	August 26, 1996, 61 FR 43924.	
As amended, Checklist 151.6 .....	February 19, 1997, 62 FR 7502.	
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision, Checklist 152.	April 12, 1996, 61 FR 16289.	NR 661.06, 662.010, 662.190, 662.053, 662.56, 662.058, 662.080, 662.081, 662.082, 662.083, 662.084, 662.085, 662.086, 662.087, 662.088, 662.089, 663.10, 663.20, 664.0012, 664.0071, 665.0012, 665.0071, 666.70, 673.20, 673.40, 673.56, 673.70, Effective August 1, 2006.
Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments and Containers, Checklist 154.	November 25, 1996, 61 FR 59931.	NR 660.11, 661.06, 662.034, 662.192, 664.0013, 664.0015, 664.0073, 664.0077, 664.0179, 664.0200, 664.0232, 664.0601, 664.1030, 664.1033, 664.1034, 664.1035, 664.1050, 664.1055, 664.1058, 664.1064, 664.1080, 664.1081, 664.1082, 664.1083, 664.1084, 664.1085, 664.1086, 664.1087, 664.1088, 664.1089, 664.1090, 664.1091, 665.0001, 665.0013, 665.0015, 665.0073, 665.0077, 665.0178, 665.0202, 665.0231, 665.1030, 665.1033, 665.1034, 665.1035, 665.1050, 665.1055, 665.1058, 665.1064, 665.1080, 665.1081, 665.1082, 665.1083, 665.1084, 665.1085, 665.1086, 665.1087, 665.1088, 665.1089, 665.1090, 665.1091, 665 Appendix VI, 670.004, 670.014, 670.015, 670.016, 670.017, 670.027, Effective August 1, 2006.
As amended, Checklist 154.1 .....	December 6, 1994, 59 FR 62896.	
As amended, Checklist 154.2 .....	May 19, 1995, 60 FR 26828.	
As amended, Checklist 154.3 .....	September 29, 1995, 60 FR 50426.	
As amended, Checklist 154.4 .....	November 13, 1995, 60 FR 56952.	
As amended, Checklist 154.5 .....	February 9, 1996, 61 FR 4903.	
As amended, Checklist 154.6 .....	June 5, 1996, 61 FR 28508.	
Warfarin & Zinc Phosphide Listing, Checklist 7 .....	May 10, 1984, 49 FR 19922.	NR 661.33, Effective August 1, 2006.
Lime-Stabilized Pickle Liquor Sludge, Checklist 8 .....	June 5, 1984, 49 FR 23284	NR 661.03, Effective August 1, 2006.
Household Waste, Checklist 9 .....	November 13, 1984, 49 FR 44978.	NR 661.04, Effective August 1, 2006.
Satellite Accumulation, Checklist 12 .....	December 20, 1984, 49 FR 49568.	NR 662.034, 662.192, Effective August 1, 2006.
Financial Responsibility; Settlement Agreement (Amendment to Checklist 24's Optional Designation of 264.113 and 265.113), Checklist 24A.	June 26, 1990, 55 FR 25976.	NR 660.10, 664.0110, 664.0111, 664.0112, 664.0113, 664.0114, 664.0115, 664.0116, 664.0117, 664.0118, 664.0119, 664.0120, 664.0141, 664.0142, 664.0143, 664.0144, 664.0145, 664.0147, 664.0151, 665.0110, 665.0111, 665.0112, 665.0113, 665.0114, 665.0115, 665.0116, 665.0117, 665.0118, 665.0119, 665.0120, 665.0140, 665.0141, 665.0142, 665.0143, 665.0144, 665.0145, 665.0147, 670.014, 670.042, 670.072, Effective August 1, 2006.
Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, Checklist 43.	November 18, 1987, 52 FR 44314.	NR 664.0147, 664.0151, 665.0147, Effective August 1, 2006.



TABLE 1—WISCONSIN'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
HSWA Codification Rule 2; Corrective Action for Injection Wells, 44C.	December 1, 1987, 52 FR 45788.	NR 665.01, 670.060, Effective August 1, 2006.
Changes to Part 124 Not Accounted for by Present Checklists, Checklist 70.	January 4, 1989, 54 FR 246.	NR 670.403, 670.406, 670.405, 670.410, 670.412, Effective August 1, 2006.
Toxicity Characteristics Revisions (Correction 1), Checklist 74.1.	June 29, 1990, 55 FR 26986.	NR 661.04, 661.08, 661.24, 661.30, 261 Appendix II, 664.0301, 665.0221, 665.0273, 665 Appendix I, Effective August 1, 2006.
Burning of Hazardous Waste in Boilers and Industrial Furnaces, Checklist 85.	February 21, 1991, 56 FR 7134.	NR 660.10, 660.11, 661.02, 661.04, 261.06, 664.0112, 664.0340, 665.0112, 665.0113, 665.0340, 666.100, 666.101, 666.102, 666.103, 666.104, 666.105, 666.106, 666.107, 666.108, 666.109, 666.110, 666.111, 666.112, 266 Appendices I, II, III, IV, V, VI, VII, VIII, IX, and X, 670.022, 670.042/Appendix I, 670.066, 670.072, 670.073, Effective August 1, 2006.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I, Checklist 94.	July 17, 1991, 56 FR 32688	NR 661.03, 661.06, 665.0370, 666.040, 666.100, 666.102, 666.103, 666.104, 666.106, 666.107, 666.108, 666.109, 666.110, 666.112, 666 Appendices I, II, III, IV, VII, VIII, IX and X, Appendix A to Appendix X, Appendix B to Appendix X, Appendix C to Appendix X, 670.022, 670.042, 670.066, 670.073, Effective August 1, 2006.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and, Technical Amendments II, Checklist 96.	August 27, 1991, 56 FR 42504.	NR 661.02, 665.0112, 665.0113, 666.100, 666.102, 666.103, 666.104, 666.108, 666.109, 666.110, 666.111, 666.112, 666 Appendix IX, Appendix XI, Appendix XII, Effective August 1, 2006.
Exports of Hazardous Waste; Technical Correction, Checklist 97.	September 4, 1991, 56 FR 43704.	NR 662.053, 662.190, 662.056, Effective August 1, 2006.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, Checklist 111.	August 25, 1992, 57 FR 38558.	NR 660.10, 660.20, 661.02, 664.0001, 665.0001, 666.100, 666.101, 666.103, 666.104, 666.106, 666.107, 666.108, 666.112, 666 Appendix IX, Effective August 1, 2006.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Amendment IV, Checklist 114.	September 30, 1992, 57 FR 44999.	NR 666.103, 666 Appendix IX, Effective August 1, 2006.
"Mixture" and "Derived-From" Rules; Response to Court Remand, Checklist 117A.	March 3, 1992, 57 FR 7628	NR 661.03, Effective August 1, 2006.
"Mixture" and "Derived-From" Rules; Technical Correction, Checklist 117A.1.	June 1, 1992, 57 FR 23062	NR 661.03, Effective August 1, 2006.
"Mixture" and "Derived-From" Rules; Final Rule, Checklist 117A.2.	October 30, 1992, 57 FR 49278.	NR 661.03, Effective August 1, 2006.
Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated, Checklist 124.	May 24, 1993, 58 FR 29860.	NR 664.0001, 665.0001, 668.01, 668.02, 668.07, 668.09, 668.37, 668.40, 668.41, 668.42, 668.43, 670.042, Effective August 1, 2006.
Requirements for Preparation, Adoption and Submittal of Implementation Plans, Checklist 125.	July 20, 1993, 58 FR 38816	NR 660.11, 666.104, 666.106, 666 Appendix X, Effective August 1, 2006.
Burning of Hazardous Waste in Boilers and Industrial Furnaces, Checklist 127.	November 9, 1993, 58 FR 59598.	NR 666.112, 266 Appendix VII, Effective August 1, 2006.
Recordkeeping Instructions, Checklist 131 .....	March 24, 1994, 59 FR 13891.	NR 664 Appendix I/Table I & II, 665 Appendix I/Table I & II, Effective August 1, 2006.
Solid Waste, Hazardous Waste, Oil Discharge and Superfund Programs; Removal of Legally Obsolete Rules, Checklist 144.	June 29, 1995, 60 FR 33912.	NR 661.31, 666.103, 666.104, 670.002, 670.010, Effective August 1, 2006.
Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs, Checklist 153.	July 1, 1996, 61 FR 34252	NR 661.05, Effective August 1, 2006.
Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance, Checklist 155.	January 14, 1997, 62 FR 1992.	NR 668.39, Effective August 1, 2006.
Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties, Checklist 156.	February 12, 1997, 62 FR 6622.	NR 660.10, 661.02, 662.010, 662.190, 662.020, 662.191, 663.10, 664.0001, 664.0070, 664.1200, 664.1201, 664.1202, 665.0001, 665.0070, 665.1200, 665.1201, 665.1202, 666.200, 666.201, 666.202, 666.203, 666.204, 666.205, 666.206, 670.001, 670.042, Effective August 1, 2006.
Land Disposal Restrictions—Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions, Checklist 157.	May 12, 1997, 62 FR 25998.	NR 661.01, 661.02, 661.04, 661.06, 668.01, 668.04, 668.07, 668.09, 668.30, 668.40, 668.42, 668.44, 668 Appendix VI, VII, VIII, Effective August 1, 2006.

TABLE 1—WISCONSIN'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Hazardous Waste Management System; Testing and Monitoring Activities, Checklist 158.	June 13, 1997, 62 FR 32452.	NR 660.11, 664.1034, 664.1063, 664 Appendix IX, 665.1034, 665.1063, 666.104, 666.106, 266.107, 266 Appendix IX, Effective August 1, 2006.
Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions, Checklist 159.	June 17, 1997, 62 FR 32974.	NR 661.32/table, 661.33, 661 Appendix VII and VIII, 668.39, 668.40/table, Effective August 1, 2006.
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Checklist 160.	July 14, 1997, 62 FR 37694	NR 668.39, Effective August 1, 2006.
Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Waste From Carbamate Production, Checklist 161.	August 28, 1997, 62 FR 45568.	NR 668.40, 668.48, Effective August 1, 2006.
Clarification of Standards for Hazardous Waste LDR Treatment Variances, Checklist 162.	December 5, 1997, 62 FR 64504.	NR 668.44, Effective August 1, 2006.
Organic Air Emissions Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment, Checklist 163.	December 8, 1997, 62 FR 64636.	NR 664.0015, 664.0073, 664.1030, 664.1031, 664.1033, 664.1050, 664.1060, 664.1062, 664.1064, 664.1080, 664.1082, 664.1083, 664.1084, 664.1085, 664.1086, 664.1087, 664.1089, 665.0015, 665.0073, 665.1030, 665.1033, 665.1050, 665.1060, 665.1062, 665.1064, 665.1080, 665.1081, 665.1082, 665.1083, 665.1084, 665.1085, 665.1086, 665.1087, 665.1088, 665.1090, 670.014, Effective August 1, 2006.
Kraft Mill Steam Stripper Condensate Exclusion, Checklist 164.	April 15, 1998, 63 FR 18504.	NR 661.04, Effective August 1, 2006.
Recycled Used Oil Management Standards; Technical Correction and Clarification, Checklist 166.	May 6, 1998, 63 FR 24963	NR 661.05, 661.06, 679.10, 679.22, 679.45, 679.54, 679.64, 679.74, Effective August 1, 2006.
As amended, Checklist 166.1 .....	July 14, 1998, 63 FR 37780.	
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes, Checklist 167A.	May 26, 1998, 63 FR 28556.	NR 668.02, 668.03, 668.34, 668.40, 668.48, Effective August 1, 2006.
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions, Checklist 167B.	May 26, 1998, 63 FR 28556.	NR 668.02, 668.07, 668.44, 668.49, Effective August 1, 2006.
Land Disposal Restrictions Phase IV—Corrections, Checklist 167C.	May 26, 1998, 63 FR 28556.	NR 668.04, 668.07, 668.40, 668.42, 668.45, 668.48, 668 Appendix VII/Table 1, Appendix VII/Table 2, Appendix VIII, Effective August 1, 2006.
As amended, Checklist 167C.1 .....	June 8, 1998, 63 FR 31266.	
Mineral Processing Secondary Materials Exclusion, Checklist 167D.	May 26, 1998, 63 FR 58556.	NR 661.02, 661.03, 661.04, Effective August 1, 2006.
Bevill Exclusion Revisions and Clarification, Checklist 167E.	May 26, 1998, 63 FR 28556.	NR 661.03, 661.04, Effective August 1, 2006.
Exclusion of Recycled Wood Preserving Wastewaters, Checklist 167F.	May 26, 1998, 63 FR 28556.	NR 261.04, Effective August 1, 2006.
Hazardous Waste Combustors Revised Standards, Checklist 168.	June 19, 1998, 63 FR 33782.	NR 661.04, 661.38, 670.042, 670.072, Effective August 1, 2006.
Petroleum Refining Process, Checklist 169 .....	August 6, 1998, 63 FR 42110.	NR 661.03, 661.04, 661.06, 661.31, 661.32, 261, 668.35, 668.40 Appendix VII, Effective August 1, 2006.
Land Disposal Restrictions—Phase IV, Checklist 170 .....	August 31, 1998, 63 FR 46332.	NR 668.40, Effective August 1, 2006.
Emergency Revisions of LDR Treatment Standards, Checklist 171.	September 4, 1998, 63 FR 47409.	NR 668.40, 668.48, Effective August 1, 2006.
Emergency Revisions of LDR Treatment Standards, Checklist 172.	September 9, 1998, 63 FR 48124.	NR 668.34, Effective August 1, 2006.
Land Disposal Restrictions Treatment Standards (Spent Potliners), Checklist 173.	September 24, 1998, 63 FR 51254.	NR 668.39, 668.40, Effective August 1, 2006.
Standards Applicable to Owners/Operators of Closed and Closing Hazardous Waste Management Facilities: Post-Closure Permit Requirement and Closure Process, Checklist 174.	October 22, 1998, 63 FR 56710.	NR 664.0090, 664.0110, 664.0112, 664.0118, 664.0140, 665.0090, 665.0110, 665.0112, 665.0118, 665.0121, 665.0140, 670.001, 670.014, 670.028, Effective August 1, 2008.

TABLE 1—WISCONSIN'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Hazardous Remediation Waste Management Requirements, Checklist 175.	November 30, 1998, 63 FR 65874.	NR 660.10, 661.04, 664.0001, 664.0073, 664.0101, 664.0552, 664.0553, 664.0554, 665.0001, 668.02, 668.50, 670.002, 670.011, 670.042, 670.068, 670.073, 670.079, 670.080, 670.085, 670.090, 670.095, 670.100, 670.105, 670.110, 670.115, 670.120, 670.125, 670.130, 670.135, 670.140, 670.145, 670.150, 670.155, 670.160, 670.165, 670.170, 670.175, 670.180, 670.185, 670.190, 670.195, 670.200, 670.205, 670.210, 670.215, 670.220, 670.225, 670.230, Effective August 1, 2006.
Universal Waste Rule Technical Amendment, Checklist 176.	December 24, 1998, 63 FR 71225.	NR 666.80, 673.06, Effective August 1, 2006.
Organic Air Emission Standards, Checklist 177 .....	January 21, 1999, 64 FR 3381.	NR 662.034, 662.192, 664.1031, 664.1080, 664.1083, 664.1084, 664.1086, 665.1080, 665.1084, 665.1085, 665.1087, Effective August 1, 2006.
Petroleum Refining Process Wastes, Checklist 178 .....	February 11, 1999, 64 FR 6806.	NR 661.04, Effective August 1, 2006.
Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards, Checklist 179.	May 11, 1999, 64 FR 25408.	NR 661.02, 661.04, 662.034, 662.192, 668.02, 668.07, 668.09, 668.40, 668.48, 668.49, Effective August 1, 2006.
Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Under the CWA and RCRA, Checklist 180.	May 14, 1999, 64 FR 26315.	NR 660.11, Effective August 1, 2006.
Universal Waste: Lamp Rule, Checklist 181 .....	July 6, 1999, 64 FR 36466	NR 660.10, 661.09, 664.0001, 665.0001, 668.01, 670.001, 673.01, 673.02, 673.03, 673.04, 673.05, 673.06, 673.07, 673.08, 673.09, 673.10, 673.13, 673.14, 673.30, 673.32, 673.33, 673.34, 673.50, 673.60, 673.81, Effective August 1, 2006.
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Checklist 182.	September 30, 1999, 64 FR 52827.	NR 660.10, 661.38, 664.0340, 664.0601, 665.0340, 666.100, 666.101, 666.105, 666.112, 266 Appendix VIII, 670.019, 670.022, 670.042, 670.062, 670.066, Effective August 1, 2006.
As amended, Checklist 182.1 .....	November 19, 1999, 64 FR 63209.	
Land Disposal Restrictions; Wood Preserving Wastes, Metal Wastes, Zinc Micronutrients Fertilizer, etc.; Corrections, Checklist 183.	October 20, 1999, 64 FR 56469.	NR 661.32, 662.034, 662.192, 668.07, 668.40, 668.49, Effective August 1, 2006.
Wastewater Treatment Sludges from the Metal Finishing Industry; 180-Day Accumulation Time, Checklist 184.	March 8, 2000, 65 FR 12378.	NR 662.034, 662.192, Effective August 1, 2006.
Organobromine Production Wastes, Checklist 185 .....	March 17, 2000, 65 FR 14472.	NR 661.32 Table, 661.33 Table, 661 Appendix VII and VIII, 668.40, 668.48, Effective August 1, 2006.
Organobromine Production Waste and Petroleum Refining Process Waste—Clarification, Checklist 187.	June 8, 2000, 65 FR 36365	NR 661.31, 668 Appendix VII, Effective August 1, 2006.
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections, Checklist 188.	July 10, 2000, 65 FR 42292	NR 661.38, 664.0340, 670.042, Effective August 1, 2006.
As amended, Checklist 188.1 .....	May 14, 2001, 66 FR 24270.	
As amended, Checklist 188.2 .....	July 3, 2001, 66 FR 35087.	
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities, Checklist 189.	November 8, 2000, 65 FR 67068.	NR 661.32, 661 Appendix VII and VIII, 668.33, 668.40, 668.48, Effective August 1, 2006.
Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil, Checklist 190.	December 26, 2000, 65 FR 81373.	NR 668.32, 668.48, 668.49, 668 Appendix III, Effective August 1, 2006.
Storage, Treatment, Transportation, and Disposal of Mixed Waste, Checklist 191.	May 16, 2001, 66 FR 27218.	NR 666.210, 666.220, 666.225, 666.230, 666.235, 666.240, 666.245, 666.250, 666.255, 666.260, 666.305, 666.310, 666.315, 666.320, 666.325, 666.330, 666.335, 666.340, 666.345, 666.350, 666.355, 666.360, Effective August 1, 2006.
Mixture and Derived-From Rule Revisions, Checklist 192A.	May 16, 2001, 66 FR 27266.	NR 661.03, Effective August 1, 2006.
Land Disposal Restrictions Correction, Checklist 192B .....	May 16, 2001, 66 FR 27266.	NR 268 Appendix VII/Table 1, Effective August 1, 2006.
Change of EPA Mailing Address, Checklist 193 .....	June 28, 2001, 66 FR 34374.	NR 660.11, Effective August 1, 2006.



TABLE 1—WISCONSIN'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules, Checklist 194.	October 3, 2001, 66 FR 50332.	NR 661.03; Effective August 1, 2006.
Inorganic Chemical Manufacturing Wastes Identification and Listing, Checklist 195.	November 20, 2001, 66 FR 58258.	NR 661.04, 661.32, 661 Appendix VII, 668.36, 668.40 Table, Effective August 1, 2006.
As amended 195.1 .....	April 9, 2002, 67 FR 17119.	
CAMU Amendments, Checklist 196 .....	January 22, 2002, 67 FR 2962.	NR 660.10, 664.0550, 664.0551, 664.0552, 664.0554, 664.0555, Effective August 1, 2006.
Hazardous Air Pollutant Standards for Combustors; Interim Standards, Checklist 197.	February 13, 2002, 67 FR 6792.	NR 664.0340, 665.0340, 666.100, 670.019, 670.022, 670.062, 670.066, 670.235, Effective August 1, 2006.
Hazardous Air Pollutant Standards for Combustors; Corrections, Checklist 198.	February 14, 2002, 67 FR 6968.	NR 666.100, 670.042, Effective August 1, 2006.
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Used with MGP Waste, Checklist 199.	March 13, 2002, 67 FR 11251.	NR 661.02, 661.04, 661.24, Effective August 1, 2006.
Zinc Fertilizers Made From Recycled Hazardous Secondary Materials, Checklist 200.	July 24, 2002, 67 FR 48393	NR 661.04, 666.020, 668.40, Effective August 1, 2006.
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries, Checklist 201.	October 7, 2002, 67 FR 62618.	NR 668.40/Table, Effective August 1, 2006.
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors—Corrections, Checklist 202.	December 19, 2002, 67 FR 77687.	NR 670.019, 670.022, 670.062, 670.066, Effective August 1, 2006.
Hazardous Waste System; Modification of the Hazardous Waste Manifest System; Final Rule, Checklist 207.	March 4, 2005, 70 FR 10776.	NR 660.10, 661.07, 662.020, 662.191, 662.021, 662.190, 662.027, 662.032, 662.033, 662.034, 662.192, 662.054, 662.60, 662 Appendix, 662 Appendix/8700–22, 662 Appendix/8700–22A, 663.20, 663.21, 664.0070, 664.0071, 664.0072, 664.0076, 665.0070, 665.0071, 665.0072, 665.0076, Effective April 1, 2007.
As amended, Checklist 207.1 .....	June 16, 2005, 70 FR 35034.	

### G. Where Are the Revised State Rules Different From the Federal Rules?

These practices are prohibited in Wisconsin: Underground Injection (40 CFR Part 144), and Land Treatment (40 CFR 270.20) of hazardous waste. Wisconsin also does not provide for Permit by Rule (40 CFR 270.60). Wisconsin does not allow automatic authorization under the permit modification regulations found in 40 CFR 270.42(b)(6). The 10 year Remedial Action Plan, or RAP (40 CFR 270.79–270.239) is replaced by a 5 year Remediation Variance (NR 670.079) (See 66 FR 28397 (2001) for a discussion on Wisconsin Variance authority). These Wisconsin regulations are more stringent: 662.220(5)(c,d), 662.220(6)(c,d,f), and 670.030(10)(i) (annual report required instead of a biennial report). Wisconsin maintains different financial regulations, that allow for additional equivalent financial mechanisms (664.0143), do not allow the net worth test for closure under Part 665, and maintain some more stringent insurance requirements under

664.0143(5)(h), 664.0147(1)(a)(3), and 665.0147(1)(a)(3).

The following Wisconsin regulations have no Federal Counterpart: 666.900 through 666.910. On the converse, there are no Wisconsin provisions for 40 CFR 268.5, 268.44 (other than 268.44(h)), and 270.3 as these are Federal non-delegable provisions.

### H. Who Handles Permits After the Authorization Takes Effect?

Wisconsin will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Wisconsin is not yet authorized.

### I. How Does This Action Affect Indian Country (18 U.S.C. 1151) in Wisconsin?

Wisconsin is not authorized to carry out its hazardous waste program in "Indian Country," as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Wisconsin;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, this action has no effect on Indian Country. EPA will continue to implement and administer the RCRA program in Indian Country.

### J. What Is Codification and Is EPA Codifying Wisconsin's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. Wisconsin's rules, up

to and including those revised June 7, 1991, as corrected August 19, 1991, have previously been codified through the incorporation-by-reference effective February 4, 1992 (57 FR 4162). We reserve the amendment of 40 CFR part 272, subpart KK for the codification of Wisconsin's program changes until a later date.

#### K. Statutory and Executive Order Reviews

This final rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law (see **SUPPLEMENTARY INFORMATION**, Section A. Why are Revisions to State Programs Necessary?). Therefore this rule complies with applicable executive orders and statutory provisions as follows:

##### 1. Executive Order 18266: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore this action is not subject to review by OMB.

##### 2. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### 3. Regulatory Flexibility Act

This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

##### 4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

##### 5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government).

##### 6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

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

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

##### 9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

##### 10. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

##### 11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings

implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

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

Because this rule proposes authorization of pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

##### 13. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 20, 2009.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E9-8850 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 2, 22, and 52**

[FAC 2005-29, Amendment-3; FAR Case 2007-013; Docket 2008-0001; Sequence 18]

RIN 9000-AK91

**Federal Acquisition Regulation; FAR  
Case 2007-013, Employment Eligibility  
Verification**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Amendment to final rule; delay of applicability date.

**SUMMARY:** The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have agreed to delay the applicability date of FAR Case 2007-013, Employment Eligibility Verification, to June 30, 2009.

**DATES:** *Applicability Date:* The applicability date of FAC 2005-29,

Amendment-2, published January 30, 2009, 74 FR 5621, is delayed until June 30, 2009.

Contracting officers shall not include the new clause at 52.222-54, Employment Eligibility Verification, in any solicitation or contract prior to the applicability date of June 30, 2009.

On or after June 30, 2009, contracting officers—

- Shall include the clause in solicitations, in accordance with the clause prescription at 22.1803 and FAR 1.108(d)(1); and

- Should modify, on a bilateral basis, existing indefinite-delivery/indefinite-quantity contracts in accordance with FAR 1.108(d)(3) to include the clause for future orders if the remaining period of performance extends beyond December 30, 2009, and the amount of work or number of orders expected under the remaining performance period is substantial.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat at (202) 501-4755 for further information pertaining to status or publication schedule. Please cite FAC 2005-29 (delay of applicability date).

**SUPPLEMENTARY INFORMATION:** This document extends to June 30, 2009, the applicability date of the E-Verify rule, in order to permit the new Administration

an adequate opportunity to review the rule.

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC) 2005-29, Amendment-3, is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

The Federal Acquisition Regulation (FAR) contained in FAC 2005-29 was effective January 19, 2009, and is applicable June 30, 2009.

Dated: April 13, 2009.

**Linda W. Neilson,**

*Acting Director, Defense Procurement and Acquisition Policy.*

Dated: April 10, 2009.

**Rodney P. Lantier,**

*Acting Senior Procurement Executive & Acting Deputy Chief Acquisition Officer, Office of the Chief Acquisition Officer, U.S. General Services Administration.*

Dated: April 13, 2009

**William P. McNally,**

*Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

[FR Doc. E9-8849 Filed 4-16-09; 8:45 am]

**BILLING CODE 6820-EP-S**

## Proposed Rules

Federal Register

Vol. 74, No. 73

Friday, April 17, 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.

### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 37

[NRC-2008-0120]

RIN 3150-A112

#### Physical Protection of Byproduct Material

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Availability of preliminary draft rule language.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is making available preliminary draft proposed rule language to amend its regulations to add a new part 37 to Title 10 of the Code of Federal Regulations. This new part 37 will contain the security (physical protection) requirements that are designed to provide reasonable assurance of preventing the theft or diversion of category 1 and category 2 quantities of radioactive material as designated by the International Atomic Energy Agency (IAEA). The new provisions will address background investigations, access control, physical security during use, and physical security during any transport of category 1 and category 2 quantities of radioactive material. At this time, the staff is only posting the preliminary draft language for the background investigations and access control program. These requirements will be contained in subpart B of the new part 37. The draft preliminary language for the transportation security was noticed in November 2008 (73 FR 69590; November 19, 2008). Draft preliminary language for physical security during use will be posted and noticed in the future. The availability of the preliminary draft rule language is intended to inform stakeholders of the current status of the NRC's activities and solicit public comments on the information being provided at this time. Comments may be provided as indicated under the **ADDRESSES** heading.

The NRC may post updates periodically under Docket # NRC-2008-0120 on the Federal eRulemaking Portal at <http://www.regulations.gov> that may be of interest to stakeholders.

**DATES:** Submit comment by June 1, 2009. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the number RIN 3150-A112 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety in NRC's Agencywide Documents Access and Management System (ADAMS) and at <http://www.regulations.gov>. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0120]. Address questions about NRC dockets to Carol Gallagher 301-415-5905; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

*E-mail comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677. Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

*Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone 301-415-1677)

*Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

You can access publicly available documents related to this document using the following methods:

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O-1F21, One White Flint

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*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0120].

**FOR FURTHER INFORMATION CONTACT:** Merri Horn, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-8126, e-mail [Merri.Horn@nrc.gov](mailto:Merri.Horn@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The preliminary draft rule language can be viewed and downloaded electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> by searching for Docket # NRC-2008-0120 as well as in ADAMS under ADAMS Accession Number ML090900428.

The staff is proposing to add a new part 37 that will contain the security (physical protection) requirements that are designed to provide reasonable assurance of preventing the theft or diversion of category 1 and category 2 quantities of radioactive material as designated by the International Atomic Energy Agency. The new provisions will address background investigations and access control, physical security during use, and physical security during any transport of category 1 and category 2 quantities of radioactive material. At this time, the staff is only posting the preliminary draft language for the background investigation and access control program. These requirements will be contained in subpart B of the new part 37. Draft preliminary language for physical protection during use will be posted and noticed in the future.

The NRC is making a preliminary version of this draft proposed rule language available to inform

stakeholders of the current status of this proposed rulemaking. The NRC is inviting stakeholders to comment on the draft preliminary language. This preliminary draft rule language may be subject to significant revisions during the rulemaking process. Public input at this stage will help inform the development of the proposed rule.

The NRC will review and consider any comments received; however, the NRC will not respond to any comments received at this pre-rulemaking stage. As appropriate, the Statements of Consideration for the proposed rule will briefly discuss any substantive changes made to the preliminary draft proposed rule language as a result of comments received on this preliminary version. Stakeholders will also have an opportunity to comment on the rule language when it is published as a proposed rule in accordance with the provisions of the Administrative Procedure Act. The NRC will respond to any such comments in the Statements of Consideration for the final rule.

The NRC may post updates to the preliminary draft proposed rule language on the Federal eRulemaking Portal under Docket # NRC-2008-0120. Regulations.gov allows members of the public to set-up notifications so that they may be alerted when documents are added to a docket. Users are notified via e-mail at an e-mail address provided at the time of registration for the notification. Directions for signing up for the automatic notifications can be found at <http://www.regulations.gov>. To do so, search for the docket you are interested in and then choose "Notification," found under the title of each action.

Dated at Rockville, Maryland, this 10th day of April 2009.

For the Nuclear Regulatory Commission.

**Mark R. Shaffer,**

*Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. E9-8830 Filed 4-16-09; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0201; Directorate Identifier 2008-NE-47-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Thielert Aircraft Engines GmbH (TAE) Models TAE 125-01 and TAE 125-02-99 Reciprocating Engines Installed in, but not Limited to, Diamond Aircraft Industries Model DA42 Airplanes**

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued 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:

In-flight shutdown incidents have been reported on Diamond Aircraft Industries DA42 aircraft equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of failure of the propeller control valve. This condition, if not corrected, could lead to further cases of engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

We are proposing this AD to prevent engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

**DATES:** We must receive comments on this proposed AD by May 18, 2009.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

#### **Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m.

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

#### **FOR FURTHER INFORMATION CONTACT:**

Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [jason.yang@faa.gov](mailto:jason.yang@faa.gov); telephone (781) 238-7747; fax (781) 238-7199.

#### **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-2009-0201; Directorate Identifier 2008-NE-47-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 with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

##### **Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008-0145, dated August 1, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

In-flight shutdown incidents have been reported on Diamond Aircraft Industries DA42 aircraft equipped with TAE 125 engines. Preliminary investigations showed



that it was mainly the result of failure of the propeller control valve. This condition, if not corrected, could lead to further cases of engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

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

**Differences Between This Proposed AD and the MCAI**

We have reviewed the MCAI and, in general, agree with its substance. But we have found it necessary to not reference the last sentence of the unsafe condition from the MCAI. That sentence stated that the problem has only manifested itself on those Thielert engines installed on Diamond Aircraft Industries DA-42 aircraft. The affected engines, which require a propeller control valve, could be used on other make and model airplanes in the future.

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

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

**Costs of Compliance**

Based on the service information, we estimate that this proposed AD would affect about 300 TAE 125-01 and TAE 125-02-99 reciprocating engines installed in Diamond Aircraft Industries Model DA42 airplanes of U.S. registry. We also estimate that it would take about 0.2 work-hour per engine to comply with this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$275 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators for one replacement of the propeller control valve, to be \$87,300.

**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, 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:

**Thielert Aircraft Engines GmbH:** Docket No. FAA-2009-0201; Directorate Identifier 2008-NE-47-AD.

**Comments Due Date**

(a) We must receive comments by May 18, 2009.

**Affected Airworthiness Directives (ADs)**

(b) None.

**Applicability**

(c) This AD applies to Thielert Aircraft Engines GmbH (TAE) models TAE 125-01 and TAE 125-02-99 reciprocating engines installed in, but not limited to, Diamond Aircraft Industries Model DA42 airplanes.

**Reason**

(d) In-flight shutdown incidents have been reported on Diamond Aircraft Industries DA42 aircraft equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of failure of the propeller control valve. This condition, if not corrected, could lead to further cases of engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

We are issuing this AD to prevent engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

**Actions and Compliance**

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

(1) If the engine is installed with propeller control valve, part number (P/N) NM-0000-0124501, replace the propeller control valve no later than the following times:

TABLE 1—COMPLIANCE TIMES

If the gearbox accumulated time-since-new on the effective date of this AD is:	Then:
(i) 400 or more flight hours (FH) .....	Replace within 55 FH or during the next scheduled maintenance, whichever occurs first, after the effective date of this AD.
(ii) Fewer than 400 FH .....	Initially replace upon accumulating 300 FH (first scheduled maintenance), or within 110 FH, whichever occurs later, after the effective date of this AD.

TABLE 1—COMPLIANCE TIMES—Continued

If the gearbox accumulated time-since-new on the effective date of this AD is:	Then:
<b>Repetitive Replacements</b>	
(iii) After completing (i) or (ii) above .....	Replace the propeller control valve at intervals not to exceed 300 FH.

(2) If the engine is not installed with propeller control valve, P/N NM-0000-0124501, no action is required.

#### Alternative Methods of Compliance (AMOCs)

(f) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(g) Refer to MCAI EASA Airworthiness Directive 2008-0145, dated August 1, 2008.

(h) Refer to Thielert Service Bulletin TM TAE 125-0018, dated June 19, 2008 (TAE 125-01), and Thielert Service Bulletin TM TAE 125-1007 P1, dated July 11, 2008 (TAE 125-02-99) for related information.

(i) Contact Thielert Aircraft Engines GmbH, Platanenstrasse 14 D-09350, Lichtenstein, Germany, telephone: +49-37204-696-0; fax: +49-37204-696-55; e-mail: [info@centurion-engines.com](mailto:info@centurion-engines.com), for a copy of this service information.

(j) Contact Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [jason.yang@faa.gov](mailto:jason.yang@faa.gov); telephone (781) 238-7747; fax (781) 238-7199, for more information about this AD.

Issued in Burlington, Massachusetts, on April 13, 2009.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.  
[FR Doc. E9-8785 Filed 4-16-09; 8:45 am]

BILLING CODE 4910-13-P

airworthiness information (MCAI) issued 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:

Cycle life limit value for ARRIUS 1A balancing piston Part Number (P/N) 0 319 20 152 0, initially set at 40 000 cycles, has been reduced to 16 000 cycles, following the discovery of a calculation error during a recent review of the ARRIUS 1 engine family files.

We are proposing this AD to prevent failure of the balancing piston, which could result in an engine in-flight-shutdown and the release of high-energy debris and damage to the helicopter.

**DATES:** We must receive comments on this proposed AD by May 18, 2009.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

#### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [james.lawrence@faa.gov](mailto:james.lawrence@faa.gov);

telephone (781) 238-7176; fax (781) 238-7199.

#### 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-2009-0348; Directorate Identifier 2008-NE-39-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 with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

#### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008-0133, dated July 17, 2008, [(referred to after this as "the MCAI"), to correct an unsafe condition for the specified products]. The MCAI states:

Cycle life limit value for ARRIUS 1A balancing piston Part Number (P/N) 0 319 20 152 0, initially set at 40 000 cycles, has been reduced to 16 000 cycles, following the discovery of a calculation error during a recent review of the ARRIUS 1 engine family files.

As of the publication date of this Airworthiness Directive, no ARRIUS 1A engines in service are fitted with a balancing piston that has logged more than 16 000 cycles, and the outlook for the consumption

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0348; Directorate Identifier 2008-NE-39-AD]

RIN 2120-AA64

#### Airworthiness Directives; Turbomeca S.A. ARRIUS 1A Turboshaft Engines

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing



of cycles on the ARRIUS 1A fleet indicates that no balancing pistons will exceed this new limit for a few years' time.

Moreover, this new cycle life limit value for the balancing piston has been incorporated since the end of 2007 in ARRIUS 1A Maintenance documentation.

Failure to comply with the new life limits provided in the Airworthiness Limitations Section of ARRIUS 1A Maintenance documentation could potentially result in an engine in-flight-shutdown and the release of high energy debris.

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

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

This product has been approved by the aviation authority of France, and is approved for operation in the United States. Pursuant to our bilateral agreement with France, 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 provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

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

The MCAI requires modifying the cyclic life limit value of the balancing piston in the engine log book as specified in Turbomeca Mandatory Service Bulletin 319 72 0811, dated April 30, 2008, and updating the approved operator's maintenance program.

We are requiring removing the balancing piston, P/N 0 319 20 152 0, before it meets or exceeds the new, reduced cyclic life limit value of 16,000 cycles-since-new.

#### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 33 products of U.S. registry. We also estimate that it would take about 0.5 work-hour per product to comply with this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$5,280 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$175,560. Our cost estimate is exclusive of possible warranty coverage.

#### 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, 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:

**Turbomeca S.A.:** Docket No. FAA-2009-0348; Directorate Identifier 2008-NE-39-AD.

#### Comments Due Date

- (a) We must receive comments by May 18, 2009.

#### Affected Airworthiness Directives (ADs)

- (b) None.

#### Applicability

(c) This AD applies to Turbomeca S.A. ARRIUS 1A turboshaft engines with balancing pistons, part number (P/N) 0 319 20 152 0, installed. These engines are installed on, but not limited to, Eurocopter AS355N helicopters.

#### Reason

(d) Cycle life limit value for ARRIUS 1A balancing piston Part Number (P/N) 0 319 20 152 0, initially set at 40 000 cycles, has been reduced to 16 000 cycles, following the discovery of a calculation error during a recent review of the ARRIUS 1 engine family files.

We are issuing this AD to prevent failure of the balancing piston, which could result in an engine in-flight-shutdown and the release of high-energy debris and damage to the helicopter.

#### Actions and Compliance

(e) Unless already done, for ARRIUS 1A engines with a balancing piston, P/N 0 319 20 152 0, installed, remove the engine from service before the balancing piston accumulates 16,000 cycles-since-new (CSN).

#### Installation Prohibition

(f) After the effective date of this AD, don't return to service any engine that has a balancing piston that has accumulated 16,000 or more CSN.

#### FAA AD Differences

(g) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) or service information as follows:

- (1) This AD requires removing from service, any ARRIUS 1A engine that has a balancing piston, P/N 0 319 20 152 0, with 16,000 CSN installed.
- (2) We prohibit returning to service ARRIUS 1A engine that has a balancing piston, P/N 0 319 20 152 0, with 16,000 or more CSN.

#### Other FAA AD Provisions

(h) Alternative Methods of Compliance (AMOCs): The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(i) Refer to MCAI Airworthiness Directive 2008-0133, dated July 17, 2008 for related information.

(j) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: james.lawrence@faa.gov; telephone (781) 238-7176; fax (781) 238-7199, for more information about this AD.

Issued in Burlington, Massachusetts, on April 9, 2009.

Peter A. White,

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

[FR Doc. E9-8786 Filed 4-16-09; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-27687; Directorate Identifier 2000-NE-42-AD]

RIN 2120-AA64

#### Airworthiness Directives; General Electric Company CF34-1A, -3A, -3A1, -3A2, -3B, and -3B1 Turbofan Engines

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

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

**SUMMARY:** This notice revises an earlier proposed airworthiness directive (AD), and supersedes an existing AD applicable to General Electric Company (GE) CF34-1A, -3A, -3A1, -3A2, -3B, and -3B1 turbofan engines. This proposed AD reopens the comment period, since we added additional requirements based on responses we received. This proposed AD would now require:

- Inspecting certain fan disks for electrical arc-out indications,
- Removing from service fan disks with electrical arc-out indications,
- Performing tactile and enhanced visual (TEV) inspections, fluorescent penetrant inspections (FPI), and eddy current inspections (ECI) on certain disks that have already had a shop-level inspection, and
- Repetitive FPI and ECI on certain fan disks.

This proposed AD results from an updated risk analysis by GE that shows we need to take corrective action that is more stringent. We are proposing this AD to prevent an uncontained failure of the fan disk, which could result in damage to the airplane.

**DATES:** We must receive any comments on this proposed AD by June 16, 2009.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200

New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* (202) 493-2251.

Contact General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215; telephone (513) 672-8400; fax (513) 672-8422, for the service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [tara.chaidez@faa.gov](mailto:tara.chaidez@faa.gov); telephone (781) 238-7773; fax (781) 238-7199.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2007-27687; Directorate Identifier 2000-NE-42-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

##### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments

received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

##### Discussion

We proposed to amend 14 CFR part 39 by superseding AD 2007-07-07R1, Amendment 39-15179 (72 FR 49183, August 28, 2007). That AD requires a onetime inspection of certain fan disks for electrical arc-out indications, replacing fan disks with electrical arc-out indications, and reducing the life limit of certain fan disks. That NPRM was prompted by us determining that we inadvertently left out an inspection requirement in Table C of AD 2007-07-07R1 to perform a shop inspection on disks that have greater than 6,000 flight hours and have already undergone a shop inspection. That condition, if not corrected, could result in an uncontained fan disk failure and airplane damage. On January 18, 2008, we published that proposal as an NPRM in the **Federal Register** (73 FR 3425). That NPRM would have required:

- Replacing certain fan disks installed on regional jets within 15 days after the effective date of the proposed AD, and
- On-wing and shop-level inspections of fan disks for electrical arc-out defects on fan disks installed on regional jets, and
- Shop-level inspections of fan disks for electrical arc-out defects on fan disks installed on business jets.

Since we issued that NPRM, GE performed an updated risk analysis that shows we need to take corrective action that is more stringent than that proposed in the NPRM. We also propose to amend 14 CFR part 39 by superseding AD 2007-05-16, Amendment 39-14977 (72 FR 10054, March 7, 2007). That AD requires a onetime visual and tactile inspection of certain areas of certain P/N and SN fan disks for an arc-out defect, within 20 engine flight hours after the effective date of that AD. Since we issued that AD, GE has added those SN fan disks to the applicable service bulletins for the repetitive inspection requirements of this proposed AD.

Since these changes expand the scope of the originally proposed rule, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment. This condition, if not corrected, could result in an uncontained failure of the fan disk and damage to the airplane.

### Relevant Service Information

We have reviewed and approved the technical contents of GE Alert Service Bulletins (ASBs) No. CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008; CF34-BJ S/B 72-A0234, dated October 27, 2008; CF34-BJ S/B 72-A0235, dated October 27, 2008; CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008; CF34-AL S/B 72-A0252, dated October 27, 2008; and CF34-AL S/B 72-A0253, dated October 27, 2008. These ASBs list the affected fan disks by serial number, part number, and tier, and describe procedures for performing TEV inspections, FPI, and ECI for cracks and electrical arc-out defects.

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

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require initial and repetitive FPI, ECI, and TEV inspections. The proposed AD would require you to use the service information described previously to perform these actions.

### Costs of Compliance

We estimate that this proposed AD would affect 1,531 engines installed on airplanes of U.S. registry. We also estimate that it would take about 2 work-hours per engine to perform the proposed on-wing inspection on 300 engines, and 4 work-hours per engine to perform the proposed shop inspection on 1,531 engines. The average labor rate is \$80 per work-hour. There are no required parts. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be \$537,920.

### Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under ADDRESSES.

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39-14977 (72 FR 10054, March 7, 2007) and Amendment 39-15179 (72 FR 49183, August 28, 2007), and by adding a new airworthiness directive to read as follows:

**General Electric Company:** Docket No. FAA-2007-27687; Directorate Identifier 2000-NE-42-AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by June 16, 2009.

(b) This AD supersedes AD 2007-05-16, Amendment 39-14977 and AD 2007-07-07R1, Amendment 39-15179.

### Applicability

(c) This AD applies to General Electric Company (GE) CF34-1A, -3A, -3A1, -3A2, -3B, and -3B1 turbofan engines, with fan disks part numbers (P/Ns) 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 installed. These engines are installed on, but not limited to, Bombardier Canadair airplane models CL-600-2A12, -2B16, and -2B19.

### Unsafe Condition

(d) This AD results from an updated risk analysis by GE that shows we need to take corrective action that is more stringent. We are issuing this AD to prevent an uncontained failure of the fan disk, which could result in damage to the airplane.

### Compliance

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

### Removing Certain Fan Disks from Service

(f) For fan disks listed by P/N and serial number (SN) in Table 2 of GE Alert Service Bulletin (ASB) CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008; or in Table 2 of GE ASB CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008 that have 8,000 CSN or more on the effective date of this AD, remove fan disks from service within 15 days after the effective date of this AD.

(g) For fan disks listed by P/N and serial number (SN) in Table 2 of GE Alert Service Bulletin (ASB) CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008; or in Table 2 of GE ASB CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008, that have fewer than 8,000 CSN on the effective date of this AD, remove fan disks from service before accumulating 8,000 CSN.

### Inspections of Tier 1 Fan Disks

(h) For CF34-3A1 engines with fan drive shaft, P/N 6036T78P02, and airworthiness limitation section life limit of 22,000 CSN, and CF34-3B1 turbofan engines with Tier 1 fan disks listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008, do the following:

#### Tactile and Enhanced Visual (TEV) Inspections, Fluorescent Penetrant Inspections (FPI), and Eddy Current Inspections (ECI)

(1) For Tier 1 fan disks not already inspected using GE ASB No. CF34-AL S/B 72-A0233, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) Perform a TEV inspection, an FPI, and an ECI on the Tier 1 fan disks within 650 cycles-in-service (CIS) after the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0233, Revision 04, dated

October 27, 2008, to perform the TEV inspection, FPI, and ECI.

(ii) Thereafter, perform repetitive ECI on the Tier 1 fan disks within intervals of 3,000 cycles-since-last inspection (CSLI). Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the repetitive ECI.

(2) For Tier 1 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008; already inspected using GE ASB No. CF34-AL S/B 72-A0233, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) For Tier 1 fan disks with 2,500 or more CSLI on the effective date of this AD, perform an ECI on the Tier 1 fan disks within 500 CIS after the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the ECI.

(ii) For Tier 1 fan disks with fewer than 2,500 CSLI on the effective date of this AD, perform an ECI on the Tier 1 fan disks within 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the ECI.

(iii) Thereafter, perform repetitive ECI on the Tier 1 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the repetitive ECI.

#### Inspections of Tier 2 Fan Disks

(i) For CF34-3A1 engines with fan drive shaft, P/N 6036T78P02, and airworthiness limitation section life limit of 22,000 CSN, and CF34-3B1 turbofan engines with Tier 2 fan disks listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008, do the following:

#### TEV Inspections, FPI, and ECI

(1) For Tier 2 fan disks not already inspected using GE ASB No. CF34-AL S/B 72-A0233, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) Perform a TEV inspection, an FPI, and an ECI on the Tier 2 fan disks within 2,000 CIS after the effective date of this AD, or within 5,000 CIS after September 12, 2007, or by March 19, 2012, whichever occurs first. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008, to perform the TEV inspection, FPI, and ECI.

(ii) Thereafter, perform repetitive eddy current inspections on the Tier 2 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the repetitive ECI.

(2) For Tier 2 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008; already inspected using GE ASB No. CF34-AL S/B 72-A0233, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) For Tier 2 fan disks with 2,500 or more CSLI on the effective date of this AD, perform an ECI on the Tier 2 fan disks within 500 CIS after the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the ECI.

(ii) For Tier 2 fan disks with fewer than 2,500 CSLI on the effective date of this AD, perform an ECI on the Tier 2 fan disks within 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the ECI.

(iii) Thereafter, perform repetitive ECI on the Tier 2 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0252, dated October 27, 2008, to perform the repetitive ECI.

#### Inspections of Tier 3 Fan Disks

(j) For CF34-3A1 engines with fan drive shaft, P/N 6036T78P02, and airworthiness limitation section life limit of 22,000 CSN, and CF34-3B1 turbofan engines with Tier 3 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008, do the following:

#### TEV Inspections, FPI, and ECI

(1) For Tier 3 fan disks not already inspected using GE ASB No. CF34-AL S/B 72-A0233, Revision 03, dated June 27, 2007, or earlier issue, perform a TEV inspection, an FPI, and an ECI on the Tier 3 fan disks within 5,000 CIS after September 12, 2007, or by March 19, 2012, whichever is earlier. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008, to perform the TEV inspection, FPI, and ECI.

(2) For Tier 3 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008; already inspected using GE ASB No. CF34-AL S/B 72-A0233, Revision 03, dated June 27, 2007, or earlier issue, perform a TEV inspection and an ECI on the Tier 3 fan disks at the next shop visit. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0233, dated October 27, 2008, to perform the TEV inspection and ECI.

(3) Repetitive ECI on the Tier 3 fan disks are not required.

#### Inspections of Tier 1 Fan Disks

(k) For CF34-1A turbofan engines with fan drive shaft, P/N 6036T78P02, and airworthiness limitation section life limit of 15,000 CSN, CF34-3A, CF34-3A2, and CF34-3B turbofan engines with Tier 1 fan disks listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008, do the following:

#### TEV Inspections, FPI, and ECI

(1) For Tier 1 fan disks not already inspected using GE ASB No. CF34-BJ S/B 72-A0212, Revision 03, dated June 27, 2007, or earlier issue:

(i) Perform a TEV inspection, FPI, and ECI on the Tier 1 fan disks within 350 CIS after

the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008, to perform the TEV inspection.

(ii) Thereafter, perform repetitive ECI on the Tier 1 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the repetitive ECI.

(2) For Tier 1 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008; already inspected using GE ASB No. CF34-BJ S/B 72-A0212, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) For Tier 1 fan disks with 2,500 or more CSLI on the effective date of this AD, perform an ECI on the Tier 1 fan disks within 500 CIS after the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the ECI.

(ii) For Tier 1 fan disks with fewer than 2,500 CSLI on the effective date of this AD, perform an ECI on the Tier 1 fan disks within 3,000 CSLI after the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the ECI.

(iii) Thereafter, perform repetitive ECI on the Tier 1 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0235, dated October 27, 2008, to perform the repetitive ECI.

#### Inspections of Tier 2 Fan Disks

(l) For CF34-1A turbofan engines with fan drive shaft, P/N 6036T78P02, and airworthiness limitation section life limit of 15,000 CSN, CF34-3A, CF34-3A2, and CF34-3B turbofan engines with Tier 2 fan disks listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0212, Revision 04, dated October 27, 2008, do the following:

#### TEV Inspections, FPI, and ECI

(1) For Tier 2 fan disks not already inspected using GE ASB No. CF34-AL S/B 72-A0212, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) Perform a TEV inspection, FPI, and ECI on the Tier 2 fan disks within 2,000 CIS after the effective date of this AD, or within 3,500 CIS after September 12, 2007, or by March 19, 2012, whichever occurs first. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008, to perform the TEV inspection, FPI, and ECI.

(ii) Thereafter, perform repetitive ECI on the Tier 2 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the repetitive ECI.

(2) For Tier 2 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008; already inspected using GE ASB



No. CF34-BJ S/B 72-A0212, Revision 03, dated June 27, 2007, or earlier issue, do the following:

(i) For Tier 2 fan disks with 2,500 or more CSLI on the effective date of this AD, perform an ECI on the Tier 2 fan disks within 500 CIS after the effective date of this AD. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the ECI.

(ii) For Tier 2 fan disks with fewer than 2,500 CSLI on the effective date of this AD, perform an ECI on the Tier 2 fan disks within 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the ECI.

(iii) Thereafter, perform repetitive ECI on the Tier 2 fan disks within intervals of 3,000 CSLI. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0235, dated October 27, 2008, to perform the repetitive ECI.

#### Inspections of Tier 3 Fan Disks

(m) For CF34-1A turbofan engines with fan drive shaft, P/N 6036T78P02, and airworthiness limitation section life limit of 15,000 CSN, CF34-5A, CF34-3A2, and CF34-3B turbofan engines with Tier 3 fan disks listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008, do the following:

#### TEV Inspections, FPI, and ECI

(1) For Tier 3 fan disks not already inspected using GE ASB No. CF34-AL S/B 72-A0212, Revision 03, dated June 27, 2007, or earlier issue, perform a TEV inspection, FPI, and ECI on the Tier 3 fan disks within 3,500 CIS after September 12, 2007, or by March 19, 2012, whichever is earlier. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-AL S/B 72-A0234, dated October 27, 2008, to perform the TEV inspection, FPI, and ECI.

(2) For Tier 3 fan disks, listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008; already inspected using GE ASB No. CF34-BJ S/B 72-A0212, Revision 03, dated June 27, 2007, or earlier issue, perform a TEV inspection and an ECI on the Tier 3 fan disks within 3,500 CSLI, but no later than March 19, 2012. Use paragraph 3.A of the Accomplishment Instructions of GE ASB CF34-BJ S/B 72-A0234, dated October 27, 2008, to perform the TEV inspection and ECI.

(3) Repetitive ECI on the Tier 3 fan disks are not required.

#### Alternative Methods of Compliance

(n) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

#### Mandatory Terminating Action

(o) Remove from service, Tier 1 and Tier 2 fan disks listed by P/N, SN, and Tier in Table 1 of GE ASB No. CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008; or CF34-BJ S/B 72-0212, Revision 04, dated October 27, 2008, before they exceed their

limited life cycles or September 30, 2018, whichever occurs first.

#### Related Information

(p) Contact Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [tara.chaidez@faa.gov](mailto:tara.chaidez@faa.gov); telephone (781) 238-7773; fax (781) 238-7199, for more information about this AD.

(q) The following GE Alert Service Bulletins pertain to the subject of this AD:

- CF34-AL S/B 72-A0233, Revision 04, dated October 27, 2008,
- CF34-AL S/B 72-A0252, dated October 27, 2008,
- CF34-AL S/B 72-A0253, dated October 27, 2008,
- CF34-BJ S/B 72-A0212, Revision 04, dated October 27, 2008,
- CF34-BJ S/B 72-A0234, dated October 27, 2008, and
- CF34-BJ S/B 72-A0235, dated October 27, 2008.

Contact General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215; telephone (513) 672-8400; fax (513) 672-8422, for a copy of this service information.

Issued in Burlington, Massachusetts, on April 9, 2009.

Peter A. White,

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

[FR Doc. E9-8787 Filed 4-16-09; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 935

[OH-253-FOR; Docket ID: OSM-2009-0001]

#### Ohio Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on the proposed amendment.

**SUMMARY:** We are announcing receipt of an amendment to the Ohio regulatory program (the "Ohio program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Ohio has submitted changes to its regulations as a result of its five-year review of Ohio's internal and procedural rules. Changes relate to practice and procedures before the reclamation commission, including definitions, commission meetings, appearance and practice before the commission; appeals to the reclamation

commission; filing and service of papers; temporary relief; responsive pleadings; discovery; motions; pre-hearing procedures; notice of hearings and continuance of hearings; site views and location of hearings; conduct of evidentiary hearings; reports and recommendations of the hearing officer; and decisions of the commission.

This document gives the times and locations that the Ohio program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments until 4 p.m., d.s.t. May 18, 2009. If requested, we will hold a public hearing on May 12, 2009. We will accept requests to speak at a hearing until 4 p.m., d.s.t. on May 4, 2009.

**ADDRESSES:** You may submit comments, identified by OH-253-FOR; Docket ID: OSM-2009-0001 by either of the following two methods:

*Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). The proposed rule has been assigned Docket ID: OSM-2009-0001. If you would like to submit comments through the Federal eRulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in the Docket ID OSM-2009-0001 and click the "Submit" button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM-2009-0001, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

*Mail/Hand Delivery/Courier:* Mr. George Rieger, Chief, Pittsburgh Field Division, Columbus Office, Office of Surface Mining Reclamation and Enforcement, 4605 Morse Road, Room 102, Columbus, Ohio 43230.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* In addition to obtaining copies of documents at [www.regulations.gov](http://www.regulations.gov), information may also be obtained at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Pittsburgh Field Division Office.

George Rieger, Chief, Pittsburgh Field Division, Columbus Office, Office of Surface Mining Reclamation and Enforcement, 4605 Morse Road, Room 102, Columbus, Ohio 43230, Telephone: (614) 416-2238, e-mail: [grieger@osmre.gov](mailto:grieger@osmre.gov).

Linda Osterman, Hearing Officer, Ohio Reclamation Commission, Ohio Department of Natural Resources, 2045 Morse Road, Bldg. F-2, Columbus, Ohio 43229, Telephone: (614) 262-1269, e-mail: [linda.osterman@dnr.state.oh.us](mailto:linda.osterman@dnr.state.oh.us).

#### FOR FURTHER INFORMATION CONTACT:

George Rieger, Telephone: (614) 416-2238. e-mail: [grieger@osmre.gov](mailto:grieger@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program
- II. Description of the Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

#### I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "...a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find additional background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval in the August 10, 1982, **Federal Register**, 47 FR 34688. You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.11 and 935.15.

#### II. Description of the Amendment

By a letter dated January 22, 2009 (Administrative Record Number OH-2188-01), Ohio sent us changes to its procedural rules. Pursuant to Ohio Revised Code 119.032, all State agencies must review their internal and procedural rules every five years. In response to this requirement, the Ohio Reclamation Commission reviewed its procedural rules. The Commission's procedural rules are found at Ohio Administrative Code 1513-3-01 through 1513-3-22. This submission contains the changes made to the Ohio Administrative Code as a result of this

review. These changes are identified below, with additions italicized and deletions bracketed:

#### 1513-3-01: Definitions.

(N) "*Regular business hours*" for the reclamation commission means 10 a.m. to 6 p.m. Monday through Friday, except for state holidays or other days in which offices of the government of the state of Ohio are permitted to close due to weather, safety or other unforeseeable events which present a risk to the public or to the commission employees. In the event of the absence of the office staff, contact information for the chairman and vice-chairman of the commission will be prominently posted at the commission offices.

[(N)] (O) "Rules of the reclamation commission" means rules 1513-3-01 to 1513-3-22 of the Administrative code and shall apply to appeals filed under both Chapters 1513. and 1514. of the Revised code, unless specifically provided otherwise.

#### 1513-3-02: Internal regulations.

(B) Four members constitute a quorum, and no action of the commission shall be valid unless it has the concurrence of at least four members. Where, in rendering a decision, a concurrence of at least four commission members is not obtained, the existing record of proceedings may be submitted to any absent commission member, who will be permitted to participate in the rendering of the decision. [at a subsequent commission meeting.]

#### 1513-3-02: Internal regulations.

(D) Pursuant to section 1513.05 of the Revised code, the reclamation commission shall elect [may appoint] a secretary, who shall perform such duties as the commission prescribes, including:

#### 1513-3-02: Internal regulations.

(D)(4) Providing notice of all public meetings [hearings] of the reclamation commission in accordance with the following procedures:

(a) Any person may determine the time and place of regularly-scheduled public meetings [hearings] or the time and place of any temporary relief hearings] by contacting the office of the reclamation commission during regular business hours;

(b) Upon request, any person may obtain advance notice of all regularly-scheduled public meetings [hearings] by supplying the office of the reclamation commission with stamped, self-addressed envelopes. The office will mail to such person a notice of the time and place of meetings [hearings] at least four calendar days before the meeting [hearing] is scheduled; [unless the hearing is a temporary relief hearing;]

(c) The reclamation commission shall provide the office of the reclamation commission with the time and place of meetings [hearings] requiring public notice under the provisions of this rule within sufficient time to enable the office to comply with the provisions of this rule.

(d) The time and location for commission meetings shall be announced in the Hannah Report published by Rotunda, Inc.

#### 1513-3-02: Internal regulations.

(H) Any [The] transcript [or recording] of a [any] proceeding before the commission, if filed with the commission [shall be the property of the commission and] shall be made available for reproduction upon application to the commission and payment of reproduction costs.

#### (I) Issuance of subpoenas.

(1) Upon request of a party, or at the initiative of the commission, the commission shall issue subpoenas ad testificandum or duces tecum.

#### 1513-3-03: Appearance and practice before the commission.

(C) Except as prohibited by section 4705.01 of the Revised code, any party may appear on his own behalf or may be represented by an attorney at law admitted to practice before the Supreme Court of Ohio, or by an attorney admitted to practice by the commission pursuant to a motion to appear pro hac vice. [In the absence of an attorney, a party may represent itself, a partnership may be represented by any of its members, a corporation or association may be represented by any of its officers and any governmental unit may be represented by an employee offering proof of authority.]

#### 1513-3-04: Appeals to the reclamation commission.

#### (B) A notice of appeal must:

(7) Pursuant to section 1513.13 of the Revised Code, identify [Identify] the grounds upon which review is being sought, the manner in which appellant is aggrieved or adversely affected by the action of the chief of the division of mineral resources management and the relief sought on appeal;

#### 1513-3-05: Filing and service of papers.

(H) If papers filed with the commission cite case law as authority in support of argument, the filing must include a copy of the case law cited and must refer to the page number or paragraph on which the relevant language is found.

#### 1513-3-08: Temporary relief.

(F) The decision of the chairman of the reclamation commission to grant or deny temporary relief may be appealed to the [full] commission, including the

chairman who decided temporary relief, within thirty days after the chairman's issuance of the decision in accordance with the provisions of section 1513.13 of the Revised Code. The [full] commission may confine its review to the record developed at the temporary relief hearing conducted by the chairman. The [full] commission shall affirm the decision of the chairman, unless it determines that the chairman's decision is arbitrary, capricious, or otherwise inconsistent with law.

1513-3-09: Responsive pleadings.

(B) Unless the commission orders otherwise, the party ordered to file a response pursuant to this rule shall have ten days from the issuance of the commission's order to make such filing.

[(B) (C) Failure to respond when ordered may be treated as a failure to appear at hearing.

1513-3-10: Discovery.

(C) Discovery shall be conducted in accordance with the procedural provisions of the "Ohio Rules of Civil Procedure." Discovery may include oral depositions, written interrogatories to parties, inspection of premises, requests for admission, and inspection of documents. [not privileged.]

1513-3-11: Motions.

(A) Except for oral motions which must be made in proceedings on the record, or where the commission otherwise directs, any motion made to the reclamation commission shall:

(4) Be filed with the commission and served upon all parties to the proceeding at least ten [five] days in advance of the hearing, unless the movant demonstrates that unusual circumstances exist justifying an exception to this rule.

1513-3-11: Motions.

(C) Motions for reconsideration of any decision of the commission shall be made in writing within ten [fourteen] days after the issuance of the commission's decision. A motion for reconsideration shall state with particularity the grounds on which it is based. The filing of a motion for reconsideration does not extend the time for filing a notice of appeal in the appellate court.

1513-3-11: Motions.

(E) In compliance with the requirements of 1513-3-13(C)(2), motions for continuance of a hearing must be filed with the reclamation commission and served upon all parties to a proceeding at least fourteen days in advance of a hearing.

[(E)] (F) Unless the commission orders otherwise, any party to a proceeding shall have ten days from service of the motion or until hearing, whichever is earlier, to file a response to a motion.

[(F)] (G) Failure to make a timely motion or to file a statement in response to a motion may be construed as a waiver of objection.

1513-3-12: Pre-hearing procedures.

(A) The reclamation commission, or its hearing officer, may schedule and hold pre-hearing conferences for settlement or simplification of the issues in any appeal.

(B) Whenever a pre-hearing conference is held, the commission, or its hearing officer, may issue an order which recites the matters discussed, the agreements reached, and the rulings made at the pre-hearing conference.

(C) The commission, or its hearing officer, may require the filing of a pre-hearing statement by the parties to an appeal.

1513-3-13: Notice of hearings and continuance of hearings.

(C) Continuance of scheduled hearings.

(2) Motions for continuance of a hearing must be filed with the reclamation commission and served upon all parties to a proceeding at least fourteen [five] days in advance of a hearing.

(3) Motions for continuance made less than fourteen [five] days before hearing or at hearing shall be granted only upon demonstration that an extraordinary situation exists which could not have been anticipated and which would justify the granting of a continuance.

1513-3-14: Site views and location of hearings.

(A) Site views.

(2) Subject to any applicable safety requirements, the [The] commission may, upon reasonable notice and at reasonable times, inspect any site or other premises when the commission is of the opinion that such a viewing would have a beneficial value in any matter pending before the commission.

(3) [Unless the right to a site view is statutorily prescribed, a] A quorum of commission members need not attend a site view.

(4) All parties shall have prior notice of a site view and shall have the right to be present. Parties shall be informed of any safety requirements prior to the site view. The commission may limit the number of persons, which may accompany a party at a site view.

1513-3-16: Conduct of evidentiary hearings.

(E) Written testimony.

(2) The use of a deposition in lieu of the [dependent's] deponent's oral testimony at hearing shall be allowed under the same provisions as are articulated in rule 32 of the "Ohio Rules of Civil Procedure." A party desiring to use a deposition, or any designated part

thereof, at hearing shall file the deposition with the commission and serve written notice to every other party at least five days prior to hearing.

(F) Witnesses.

(2) The commission may require each party in an appeal to identify prior to the commencement of a hearing each person who is or may be present and [in] his interest or who will or may be a witness for his cause in the appeal.

(G) If the appellant fails to appear personally or by counsel or other authorized representative at a hearing scheduled after being duly notified of the hearing by the mailing of a notice of hearing to such party's last known address, and if good cause for such failure to appear [appeal] is not shown, the commission shall dismiss the appeal.

(I) The reclamation commission may order the parties to a proceeding to submit post-hearing briefs or proposed findings of fact and conclusions of law at a time designated by the commission, on issues raised on the appeal or upon possible errors or omissions in the record or on any issues as the commission in its discretion shall determine. The commission may also order the parties to submit written closing arguments or proposed findings of fact and conclusions of law at the conclusion of hearing.

1513-3-18: Reports and

recommendations of the hearing officer.

(F) Any party to a proceeding may have [seven] fourteen days from service of the objections to the report and recommendation of the hearing officer to file a response.

1513-3-19: Decisions of the commission.

(A) All decisions of the commission shall [incorporate] set forth:

- (1) Findings of fact;
- (2) Conclusions of law; and
- (3) An order granting or denying relief.

1513-3-19: Decisions of the commission.

(F) Remission of prepaid civil penalty assessments.

(1) If a review of a civil penalty assessment results in an order reducing or eliminating a civil penalty, the reclamation commission shall remit the funds to the appellant in accordance with division [(F)] (E) of section 1513.02 of the Revised Code.

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve this amendment, it will become part of the Ohio program.



### Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the submission, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications. We cannot ensure that comments received after the close of the comment period (*see DATES*) or sent to an address other than those listed above (*see ADDRESSES*) will be included in the docket for this rulemaking and considered.

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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. We will not consider anonymous comments.

### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on May 4, 2009. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

### Public Meeting

If there is only limited interest in participating in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the submission, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

### IV. Procedural Determinations

#### Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

#### Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

#### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

#### Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining

operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

#### Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve Federal regulations involving Indian lands.

#### Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

#### National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

#### Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

### Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

### Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

### Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based on the analysis performed under various laws and executive orders for the counterpart Federal regulations.

### List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 24, 2009.

Thomas D. Shope,

Appalachian Regional Director.

[FR Doc. E9-8885 Filed 4-16-09; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 946

[VA-126-FOR; Docket ID OSM-2008-0012]

#### Virginia Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We are reopening the public comment period on a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Since the close of the comment period, Virginia revised its regulations pertaining to Valid Existing Rights (VER) and made other minor wording and organizational changes. Virginia intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA and is responding, in part, to 30 CFR Part 732 letters.

**DATES:** We will accept written comments until 4 p.m., local time, May 4, 2009.

**ADDRESSES:** You may submit comments, identified by "VA-126-FOR/OSM-2008-0012" by any of the following methods:

- *E-mail:* [ebandy@osmre.gov](mailto:ebandy@osmre.gov).
- *Mail/Hand Delivery:* Earl Bandy, Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, 710 Locust Street, 2nd Floor, Knoxville, Tennessee 37902, Telephone: (865) 545-4103.

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. The proposed rule has been assigned Docket ID OSM-2008-0012. If you would like to submit comments through the Federal eRulemaking Portal, go to <http://www.regulations.gov> and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in the Docket ID OSM-2008-0012 and click the "Submit" button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM-2008-0012, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

*Instructions:* All submissions received must include the agency docket number "OSM-2008-0012/VA-126-FOR" for this rulemaking. For detailed

instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" section in this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

*Docket:* You may review copies of the Virginia program, this submission, a listing of any scheduled public hearings, and all written comments received in response to this document at OSM's Knoxville Field Office at the address listed above during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the submission by contacting OSM's Knoxville Field Office. In addition, you may receive a copy of the submission during regular business hours at the following location: Virginia Department of Mines, Minerals, and Energy, 3405 Mountain Empire Road, Big Stone Gap, Virginia 24219, Telephone: Legal Services Officer (276) 523-8157.

**FOR FURTHER INFORMATION CONTACT:** Earl Bandy, Telephone: (865) 545-4103. e-mail: [ebandy@osmre.gov](mailto:ebandy@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Virginia Program
- II. Description of the Submission
- III. Public Comment Procedures

#### I. Background on the Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \* and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981, **Federal Register** (46 FR 61088). You can also find later actions concerning Virginia's program and program amendments at 30 CFR 946.12, 946.13, and 946.15.

## II. Description of the Submission

By letter dated June 11, 2008, the Virginia Department of Mines, Minerals, and Energy (DMME) sent us an informal proposed amendment to its program for a pre-submission review (VA-126-INF). We reviewed the pre-submission and responded to the DMME, with comments, via electronic mail on July 2, 2008. By letter dated July 17, 2008, the DMME formally submitted the proposed amendments to its program (Administrative Record No. VA-1089). We announced receipt of the amendment in the August 29, 2008, **Federal Register** (73 FR 50915).

OSM's review of the July 17, 2008, submittal identified several issues that we presented to the DMME. The first discussion occurred by telephone on September 4, 2008. As a result of that discussion the DMME submitted on the same date via electronic mail Memorandum #13-86 which specifies application processing time limits for new permits and revision applications (Administrative Record No. VA-1093). The complete text of the Memorandum can be found at <http://www.dmme.virginia.gov/DMLR/docs/operatormemos>. A subsequent meeting was held on October 16, 2008 (Administrative Record No. VA-1099). In an electronic mail message dated October 29, 2008 (Administrative Record No. VA-2000), the DMME provided its position in response to OSM's comments and agreed to expeditiously submit additional changes. On November 3, 2008, the DMME responded by submitting regulation changes via electronic mail (Administrative Record No. VA-2001). OSM provided additional comments on the regulation changes on November 13, 2008 (Administrative Record No. VA-2002), and the DMME responded to these comments on November 20, 2008, by electronic mail (Administrative Record No. VA-2003). The DMME proposes the following changes:

### 1. 4VAC25-130-700.5 Definitions.

The corresponding Federal regulation for this section is 30 CFR 761.5. The DMME proposes to modify the definition of *Valid Existing Rights (VER)*. As proposed, the definition will read as follows (revised text in italics):

"Valid existing rights" means a set of circumstances under which a person may, subject to Division approval, conduct surface coal mining operations on lands where Section 45.1-252 D of the Act and Section 4VAC25-130-761.11 of the regulations would otherwise prohibit such operations. The possession of valid existing rights only

confers an exception from the prohibitions of Sections 45.1-252 D and 4VAC25-130-761.11. A person seeking to exercise valid existing rights *must comply with all pertinent requirements of the Act and the regulations promulgated thereunder*, and would need:

(a) Except as provided in *subsection (c) of this definition*, a demonstration of the legally binding conveyance, lease, deed, contract, or other document which vests the person, or predecessor in interest, with the right to conduct the type of surface coal mining operations intended. The right must exist at the time the land came under the protection of Sections 4VAC25-130-761.11 and 45.1-252 D.

2. 4VAC25-130-761.11 *Areas where mining is prohibited or limited;*

4VAC25-130-761.12 *Exception for existing operations;* 4VAC25-130-761.16 *Submission and processing of requests for valid existing rights determinations;* 4VAC25-130-772.12 *Permit requirements for exploration removing more than 250 tons of coal.*

The corresponding Federal regulations for the following sections are 30 CFR 761.11, 761.12, 761.16, and 772.12. The DMME proposes to add new sections 4VAC25-130-761.12, and 4VAC25-130-761.16 and revise 4VAC25-130-761.11 and 4VAC25-130-772.12 to read as follows:

(a) 4VAC25-130-761.11 *Areas where mining is prohibited or limited.*

(Revised) Delete Paragraph (h) which reads as follows: There will be no surface coal mining, permitting, licensing, or exploration of Federal Lands in the National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas, unless called for by Acts of Congress.

(b) 4VAC25-130-761.12 *Exception for existing operations.* (New) The prohibitions and limitations of 4VAC25-130-761.11 do not apply to surface coal mining operations for which a valid permit, issued under Subchapter VG of this chapter, exists when the land comes under the protection of 4VAC25-130-761.11. This exception applies only to lands within the permit area as it exists when the land comes under the protection of 4VAC25-130-761.11.

(c) 4VAC25-130-761.16 *Submission and processing of requests for valid existing rights determinations.* (New)

(a) Basic framework for valid existing rights determinations. The table of 30 CFR 761.16(a) identifies the agency

responsible for making a valid existing rights determination and the definition that it must use, based upon which subsection of 30 CFR 761.11 or 4VAC25-130-761.11 applies and whether the request includes federal lands.

(b) A request for a valid existing rights determination must be submitted to the Division, if a person intends to conduct surface coal mining operations on the basis of valid existing rights under 4VAC25-130-761.11 or wishes to confirm the right to do so. The request may be submitted before the person prepares and submits an application for a permit or boundary revision for the land.

(1) The person must provide a property rights demonstration under the definition of valid existing rights if the request relies upon the "good faith/all permits" or the "needed for and adjacent" standard set forth in the valid existing rights definition in 4VAC25-130-700.5. For the land subject to the request, the demonstration must include:

(i) A legal description of the land.

(ii) Complete documentation of the character and extent of the person's current interests in the surface and mineral estates of the land.

(iii) A complete chain of title for the surface and mineral estates of the land.

(iv) A description of the nature and effect of each title instrument that forms the basis for the request, including any provision pertaining to the type or method of mining or mining-related surface disturbances and facilities.

(v) A description of the type and extent of surface coal mining operations that the person claims the right to conduct, including the method of mining, any mining-related surface activities and facilities, and an explanation of how those operations would be consistent with Virginia property law.

(vi) Complete documentation of the nature and ownership, as of the date that the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252, of all property rights for the surface and mineral estates.

(vii) Names and addresses of the current owners of the surface and mineral estates of the land.

(viii) If the coal interests have been severed from other property interests, documentation that the person has notified and provided reasonable opportunity for the owners of other property interests in the land to comment on the validity of the person's property rights claims.

(ix) Any comments that the person receives in response to the notification provided under subdivision (b)(1)(viii).

(2) If the request relies upon the good faith/all permits standard in subdivision (b)(1) of the valid existing rights definition in 4VAC25-130-700.5, in addition to the information provided by subdivision (b)(1) of this section, the person must also submit the information about permits, licenses, and authorizations for surface coal mining operations on the land subject to the request that the person or predecessor in interest obtained, submitted, or made:

(i) Approval and issuance dates and identification numbers for any permits, licenses, and authorizations obtained before the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252.

(ii) Application dates and identification numbers for any permits, licenses, and authorizations submitted before the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252.

(iii) An explanation of any other good faith effort made to obtain the necessary permits, licenses, and authorizations as of the date that the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252.

(3) If the request relies upon the needed for and adjacent standard in subdivision (b)(2) of the valid existing rights definition in 4VAC25-130-700.5, in addition to the information provided by subdivision (b)(1) of this section, the person must explain how and why the land is needed for and immediately adjacent to the operation upon which the request is based, including a demonstration that prohibiting expansion of the operation onto that land would unfairly impact the viability of the operation as originally planned before the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252.

(4) If the request relies upon one of the standards for roads in subdivisions (c)(1-3) of the valid existing rights definition in 4VAC25-130-700.5, the person must submit satisfactory documentation that:

(i) The road existed when the land upon which it is located came under the protection of 4VAC25-130-761.11 or Section 45.1-252, and the person has a legal right to use the road for surface coal mining operations;

(ii) A properly recorded right of way or easement for a road in that location existed when the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252, and, under the document creating the right of way or easement, and under any subsequent

conveyances, the person has a legal right to use or construct a road across that right of way or easement to conduct surface coal mining operations; or

(iii) A valid permit for use or construction of a road in that location for surface coal mining operations existed when the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252.

(c) Initial review of request. The Division must conduct an initial review to determine whether the request includes all applicable components of the submission requirements of subsection (b). The review pertains only to the completeness of the request, not the legal or technical adequacy of the materials submitted.

(2) If the request does not include all applicable components of the submission requirements of subsection (b), the Division must notify the person and establish a reasonable time for submission of the missing information. Should the person not provide the information requested by the Division under this subdivision, within the time specified or as subsequently extended, the Division must issue a determination under subdivision (e)(4) that the person has not demonstrated valid existing rights.

(3) When the request includes all applicable components of the submission requirements of subsection (b), the Division must implement the notice and comment requirements of subsection (d).

(d)(1) When the division determines that the request satisfies the completeness requirements of subsection (c), it shall publish a notice in a newspaper of general circulation in the county in which the land is located inviting public comment on the merits of the request. OSMRE will publish a similar notice in the *Federal Register* if the request involves Federal lands within an area listed in 4VAC25-130-761.11(a) or (b). The public notice must include:

(i) The location of the land to which the request pertains.

(ii) A description of the type of surface coal mining operations planned.

(iii) A reference to and brief description of the applicable standard(s) under the definition of valid existing rights in 4VAC25-130-700.5.

(A) If the request relies upon the "good faith/all permits" or the "needed for and adjacent" standard set forth in the valid existing rights definition in 4VAC25-130-700.5, the notice must include a description of the property rights that the person claims and the basis for the claim.

(B) If the request relies upon the road standard set forth in subdivision (c)(1) of the valid existing rights definition in 4VAC25-130-700.5, the notice must include a description of the basis for the claim that the road existed when the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252. In addition, the notice must include a description of the basis for the claim that the person has a legal right to use that road for surface coal mining operations.

(C) If the request relies upon the standard in subdivision (c)(2) of the valid existing rights definition in 4VAC25-130-700.5, the notice must include a description of the basis for the claim that a properly recorded right of way or easement for a road in that location existed when the land came under the protection of 4VAC25-130-761.11 or Section 45.1-252. In addition, the notice must include a description of the basis for the claim that, under the document creating the right of way or easement, and under any subsequent conveyances, the person has a legal right to use or construct a road across the right of way or easement to conduct surface coal mining operations.

(iv) If the request relies upon one or more of the standards in subdivisions (b) and (c)(1 and 2) and (c)(2) of the valid existing rights definition in 4VAC25-130-700.5, a statement that the Division will not make a decision on the merits of the request if, by the close of the comment period under the notice or the notice required by subdivision (d)(3), a person with a legal interest in the land initiates appropriate legal action in the proper venue to resolve any differences concerning the validity or interpretation of the deed, lease, easement, or other documents that form the basis of the valid existing rights claim.

(v) A description of the procedures the division will follow in processing the request.

(vi) The closing date of the public comment period, which shall be a minimum of 30 days after the notice's publication date.

(vii) A statement that interested persons may request, in writing, from the Division a 30 day extension of the public comment period. The extension request shall set forth with reasonable specificity, the reasons the commenter needs the additional time to submit comments.

(viii) Include the Division office's address where a copy of the valid existing rights request is available for public inspection and to where comments and requests for extension of the comment period should be sent.



(2) The Division must promptly provide a copy of the notice required under subdivision (d)(1) to:

(i) All reasonably locatable owners of surface and mineral estates in the land included in the valid existing rights request.

(ii) The owner of the feature causing the land to come under the protection of 4VAC25-130-761.11, and, when applicable, the agency(ies) with primary jurisdiction over the feature with respect to the values causing the land to come under the protection of 4VAC25-130-761.11.

(3) The notice required under subdivision (d)(2) must provide a 30 day comment period, and specify that another 30 days may be granted for good cause shown at the discretion of the Division or agency responsible for the valid existing rights determination.

(e)(1) The division or agency responsible for making the valid existing rights determination must review the materials submitted under subsection (b), comments received under subsection (d), and any other relevant, reasonably available information to determine whether the record is sufficiently complete and adequate to support a decision on the merits of the request. If not, the division must notify the person in writing, explaining the inadequacy of the record and requesting submittal, within a specified reasonable time, of any additional information that the division deems necessary to remedy the inadequacy.

(2) Once the record is complete and adequate, the Division must determine whether you have demonstrated valid existing rights. The Division's decision must explain how the person has or has not satisfied all applicable elements of the valid existing rights definition under 4VAC25-130-700.5, contain findings of fact and conclusions, and specify the reasons for the conclusions.

(3) When the request relies upon one or more of the standards in subdivisions (b) and (c)(1 and 2) of the valid existing rights definition in 4VAC25-130-700.5, the Division:

(i) Must issue a determination that the person has not demonstrated valid existing rights if the property rights claim is the subject of pending litigation in a court or administrative body with jurisdiction over the property rights in question. The division will make the determination without prejudice, meaning that the person may refile the request once the property rights dispute is finally adjudicated. This applies only to situations in which legal action has been initiated as of the closing date of

the comment period under subdivisions (d)(1) or (d)(3).

(ii) If the record indicates disagreement as to the accuracy of the person's property rights claim, but the disagreement is not the subject of pending litigation in a court or administrative agency of competent jurisdiction, must evaluate the merits of the information in the record and determine whether the person has demonstrated that the requisite property rights exist under subdivision (a), (c)(1), or (c)(2) of the valid existing rights definition in 4VAC25-130-700.5, as appropriate. The Division must then proceed with the decision process under subdivision (e)(2) of this section.

(4) The Division must issue a determination that the person has not demonstrated valid existing rights if the person does not submit information that the division requests under subdivision (c)(2) or (e)(1) of this section within the time specified or as subsequently extended. The Division will make the determination without prejudice, meaning the person may refile a revised request at any time.

(5) After making a valid existing rights determination, the Division shall:

(i) Provide the person a copy of the determination with an explanation of appeal rights and procedures to the person seeking the determination, owner or owners of the land to which the determination applies, owner of the feature causing the land to come under the protection of 4VAC25-130-761.11, and, when applicable, the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 4VAC25-130-761.11.

(ii) Publish notice of the determination in a newspaper of general circulation in the county in which the land is located. OSMRE will publish the determination, together with an explanation of appeal rights and procedures, in the **Federal Register** if the request includes Federal lands within an area listed in 4VAC25-130-761.11(a) or (b).

(f) The division's valid existing rights determination shall be subject to administrative and judicial review under 4VAC25-130-775.11 and 4VAC25-130-775.13.

(g) The division must make a copy of the valid existing rights determination request available to the public as provided by 4VAC25-130-773.13(d), and the records associated with that request, and any subsequent determination under subsection (e) of this section, available to the public in accordance with 4VAC25-130-840.14.

(d) 4VAC25-130-772.12. *Permit requirements for exploration removing more than 250 tons of coal, or occurring on lands designated as unsuitable for surface coal mining operations.*

(Revised by adding paragraphs (b)(14) and (d)(2)(iv))

(b) Application Information. Each application for an exploration permit shall contain, at a minimum, the following information:

(14) For any lands listed in 4VAC25-130-761.11, a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of 4VAC25-130-761.11, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 4VAC25-130-761.11.

(d) Decisions on applications for exploration.

(2) The Division shall approve a complete and accurate application for a coal exploration permit filed in accordance with this Part if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will:

(i) With respect to exploration activities on any lands protected under 4VAC25-130-761.11, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the division must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of 4VAC25-130-761.11, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 4VAC25-130-761.11, to comment on whether the finding is appropriate.

3. 4VAC25-130-773.21 *Improvidently issued permits; rescission procedures.*

The corresponding Federal regulation is 30 CFR 773.23(c)(2). At subsection (b), the DMME proposes to require that the division shall post notice of a permit suspension or rescission at its offices and on its internet home page. At subsection (e), the DMME proposes to require that if a permittee files an appeal

for administrative review of the notice or decision under subsection (c) under § 4VAC25-130-775.11 and § 2.2-4000 *et seq.* of the Code of Virginia, the notice of the public hearing scheduled under this subsection will be posted at the division office located nearest to the permit.

**4. 4VAC25-130-773.13 Public participation in permit processing.**

The corresponding Federal regulation is 30 CFR 773.6. The DMME proposes to change "paragraph" to "subsection" in section (b)(1).

**5. 4VAC25-130-774.12 Post-permit issuance requirements.**

The corresponding Federal regulation for this section is 30 CFR 774.11. The DMME proposes to change "paragraph" to "subsection" in section (e).

**6. 4VAC25-130-774.17 Transfer, assignment, or sale of permit rights.**

The corresponding Federal regulation for this section is 30 CFR 774.17. The DMME proposes to change "paragraph" to "subsection" in section (a).

**7. 4VAC130-778.13 Identification of interests.**

The corresponding Federal regulation for this section is 30 CFR 778.11. The DMME proposes to change "paragraph(s)" to "subsection(s)" in sections (c), (d), (k), and (m).

**8. 4VAC25-130-801.13 Self-bonding.**

There is no direct Federal counterpart regulation for this section. The DMME proposes to change "paragraph" to "subdivision" in sections (a)(3), (a)(7), and (b).

**9. 4VAC25-130-840.14 Availability of records.**

The corresponding Federal regulation is 30 CFR 840.14(c). The DMME proposes to post a notice that states in part: Pursuant to § 2.1-340 *et seq.* of the Code of Virginia, as amended, and §§ 4 VAC 25-130-700.14, 4 VAC 25-130-702.13, 4 VAC 25-130-772.15, 4 VAC 25-130-773.13(d), and 4 VAC 25-130-840.14 (b) of the Virginia Coal Surface Mining Reclamation Regulations, the Division of Mined Land Reclamation (DMLR) will make available copies of all records, reports, inspection materials, permit applications, or information obtained by the Division for public inspection and copying. The Division will maintain the information at its principal office located in Big Stone Gap, Virginia. The information will also be made available upon request at the Division's Lebanon office. The DMLR may, upon request, provide the

information at other Federal, State, or local government office(s) located in the county where the mining is or may be proposed to occur, or provide the information electronically to the requestor. If a person wishes to inspect the information, he or she may visit or call one of DMLR's offices, or send an electronic request. Information regarding laws, regulations, public participation, complaints, guidance documents, procedures to request information, and other topics may be obtained from the DMLR's office or accessed through the DMLR's internet site. This notice will be sent to Circuit Court Clerks of coal-producing counties (Lee, Wise, Scott, Dickenson, Russell, Tazewell, Buchanan); posted at DMLR offices; and placed on the DMME webpage.

**III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Virginia program.

**Electronic or Written Comments**

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications. We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

**Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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.

**List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 22, 2009.

**Thomas D. Shope,**  
Regional Director.

**Editorial Note:** This document was received in the Office of the Federal Register on Tuesday, April 14, 2009.

[FR Doc. E9-8883 Filed 4-16-09; 8:45 am]  
BILLING CODE 4310-05-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2009-0181; FRL-8892-9]

**Approval and Promulgation of Implementation Plans; Georgia; Enhanced Inspection and Maintenance Plan**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the Georgia Department of Natural Resources through the Georgia Environmental Protection Division on February 13, 2009. The revisions include minor changes to Georgia's Air Quality Rules found at Chapter 391-3-20-.17, pertaining to rules for Enhanced Inspection and Maintenance. Specifically, the changes update the amount of repair costs that may qualify for a waiver. This action is being taken pursuant to section 110 of the Clean Air Act.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this final rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period of this proposal. Any parties interested in commenting on this proposal should do so at this time.

**DATES:** Written comments must be received on or before May 18, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0181 by one of the following methods:

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

2. *E-mail*: [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2009-0181," Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Lynorae Benjamin, Chief, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

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

**FOR FURTHER INFORMATION CONTACT:** Mohammad Madjdinasab, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9026. Mr. Madjdinasab can also be reached via electronic mail at [madjdinasab.mohammad@epa.gov](mailto:madjdinasab.mohammad@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: April 3, 2009.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E9-8783 Filed 4-16-09; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-739; MB Docket No. 09-46; RM-11524]

### Television Broadcasting Services; Buffalo, NY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a channel substitution proposed by New York Television, Inc. ("New York TV"), the licensee of WYNO-DT, DTV channel 34, Buffalo, New York. New York TV requests the substitution of DTV channel 49 for post-transition DTV channel 34 at Buffalo. **DATES:** Comments must be filed on or before May 4, 2009, and reply comments on or before May 12, 2009.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Clifford Harrington, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037-1128.

**FOR FURTHER INFORMATION CONTACT:** David J. Brown, [david.brown@fcc.gov](mailto:david.brown@fcc.gov), Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking, MB Docket No. 09-46, adopted March 26, 2009, and released April 2, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain

proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden. "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### § 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Buffalo, is amended by adding DTV channel 49 and removing DTV channel 34 at Buffalo.

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E9-8769 Filed 4-16-09; 8:45 am]

**BILLING CODE 6712-01-P**



## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

[Docket No. 090225239-9311-01]

RIN 0648-AX73

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 30B Supplement

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to resolve an error contained in the proposed rule to implement Amendment 30B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council) that published in the *Federal Register* on November 18, 2008. The error would have implemented a restriction for the Edges seasonal-area closure that was not intended. This proposed rule would establish the Edges seasonal-area closure consistent with the intent of Amendment 30B.

**DATES:** Written comments must be received on or before May 4, 2009.

**ADDRESSES:** You may submit comments on the proposed rule, identified by "0648-AX73" by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2008-0203" in the keyword search, then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the

required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 30B, which includes an environmental impact statement, an initial regulatory flexibility analysis (IRFA), and a regulatory impact review may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1711; e-mail [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org); or may be downloaded from the Council's website at <http://www.gulfcouncil.org/>.

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, 727-824-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

NMFS published a proposed rule to implement Amendment 30B on November 18, 2008, and requested public comment (73 FR 68390). That proposed rule contained an error that would have implemented a restriction applicable to the Edges seasonal-area closure that was not intended and was not supported by Amendment 30B. This proposed rule would correct that error and re-propose the provisions applicable to the Edges seasonal-area closure consistent with the intent of Amendment 30B. The Edges seasonal-area closure would prohibit fishing for any species under Council jurisdiction from January 1 through April 30 each year. This proposed closure would provide additional protection for grouper spawning aggregations, benefit other reef fish undergoing overfishing, reduce poaching, and facilitate enforcement. Additional rationale for the measures contained in Amendment 30B was correctly stated in the preamble to the original proposed rule and is not repeated here.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the AA has determined that this proposed rule is consistent with Amendment 30B, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared a Draft Environmental Impact Statement (DEIS) for Amendment 30B. A notice of availability for the DEIS was published on August 8, 2008 (73 FR 46269). A notice of availability for the final environmental impact statement was published on October 24, 2008 (73 FR 63470).

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for the original proposed rule for Amendment 30B. Of the four alternatives considered for seasonal closure in the Edges, the proposed action provides the best balance between short-term adverse economic effects on small entities and adequate protection of gag. Two alternatives would create more adverse economic effects by imposing longer fishing closures than the proposed action while one alternative would result in less adverse economic effects but would open up the area to fishing during half of the peak spawning season for gag. A complete summary of the IRFA is provided in the proposed rule published on November 18, 2008 (73 FR 68390), and is not repeated here. A copy of the full analysis is available from the Council (see **ADDRESSES**).

#### List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 13, 2009.

**Samuel D. Rauch III**,  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

#### PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 622.34, the introductory heading of paragraph (k), paragraphs (k)(1)(iii), (k)(2), (k)(3), and the first sentence of paragraph (k)(5) are revised to read as follows:

\* \* \* \* \*

#### § 622.34 Gulf EEZ seasonal and/or area closures.

\* \* \* \* \*

(k) Closure provisions applicable to the Madison and Swanson sites, Steamboat Lumps, and the Edges.

(1) \* \* \*

(iii) The Edges is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°51'	85°16'
B	28°51'	85°04'
C	28°14'	84°42'
D	28°14'	84°54'
A	28°51'	85°16'

(2) Within the Madison and Swanson sites and Steamboat Lumps, possession of Gulf reef fish is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in paragraph (k)(4) of this section.

(3) Within the Madison and Swanson sites and Steamboat Lumps during November through April, and within the Edges during January through April, all fishing is prohibited, and possession of any fish species is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as

specified in paragraph (k)(4) of this section. The provisions of this paragraph, (k)(3), do not apply to highly migratory species.

\* \* \* \* \*

(5) Within the Madison and Swanson sites and Steamboat Lumps, during May through October, surface trolling is the only allowable fishing activity. \* \* \*

\* \* \* \* \*

[FR Doc. E9-8902 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-22-S

## Notices

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

### DEPARTMENT OF AGRICULTURE

#### Submission for OMB Review; Comment Request

April 14, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA\_Submission@OMB.EOP.GOV* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

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

#### Rural Utilities Service

**Title:** RUS Specification for Quality Control and Inspection of Timber Products.

**OMB Control Number:** 0572-0076.  
**Summary of Collection:** The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture (USDA) and is authorized to manage loan programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended. It makes mortgage loans and loan guarantees to finance telecommunications, electric, and water and waste facilities in rural areas. To ensure the security of loan funds, adequate quality control of timber products is vital to loan security on electric power systems where hundreds of thousands of wood poles and cross-arms are used.

**Need and Use of the Information:** RUS will use the information in verifying acceptability of poles and cross-arms purchased by RUS borrowers. Each year, RUS borrowers are required to submit an *Annual Summary of Purchases* that provides a list of plants from which it obtained poles or cross-arms during the preceding calendar year and Treaters must provide notification that they will treat poles for the upcoming year. Test reports are needed so that the purchaser, the inspectors, and RUS will be able to spot-check the general accuracy of the tests.

**Description of Respondents:** Business or other for-profit; Not-for-profit institutions.

**Number of Respondents:** 700.

**Frequency of Responses:** Reporting: On occasion.

**Total Burden Hours:** 40,763.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. E9-8856 Filed 4-16-09; 8:45 am]

BILLING CODE 3410-15-P

### DEPARTMENT OF AGRICULTURE

#### Forest Service

#### Siuslaw Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

Federal Register

Vol. 74, No. 73

Friday, April 17, 2009

**ACTION:** Notice of meeting.

**SUMMARY:** The Siuslaw Resource Advisory Committee will meet in Corvallis, OR. The purpose of the meeting is to Review RAC FY09 Business, Elect Chairperson, Set FY09 Overhead Rate, Information Share, Public Forum and 2009 Project Review/Recommendations.

**DATES:** The meeting will be held April 24, 2009 beginning at 9 a.m.

**ADDRESSES:** The meeting will be held at the EPA—Western Ecology Division, 200 S.W. 35 Street, Corvallis, Oregon 97333.

**FOR FURTHER INFORMATION CONTACT:** Joni Quarnstrom, Siuslaw National Forest, 541/750-7075 or write to Forest Supervisor, Siuslaw National Forest, 4077 SW Research Way, Corvallis, OR 97339.

**SUPPLEMENTARY INFORMATION:** A public input period will begin before 2009 project review.

Dated: April 9, 2009.

**Barnie T. Gyant,**  
*Forest Supervisor.*

[FR Doc. E9-8735 Filed 4-16-09; 8:45 am]

BILLING CODE

### DEPARTMENT OF COMMERCE

#### International Trade Administration

A-570-836

#### Glycine from the People's Republic of China: Notice of Rescission of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a request from Jiangxi Ansun Chemical Technology Co., Ltd. ("Jiangxi Ansun") on September 24, 2008, the Department of Commerce ("the Department") published in the *Federal Register* a notice announcing the initiation of a new shipper review of the antidumping duty order on glycine from the People's Republic of China ("the PRC"), covering the period March 1, 2008, through August 31, 2008. On February 23, 2009, Jiangxi Ansun withdrew its request for a new shipper review and therefore, we are rescinding this new shipper review. **EFFECTIVE DATE:** April 17, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Dena Crossland or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3362 or (202) 482-3019, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

The Department received a timely request from Jiangxi Ansun in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on glycine from PRC. On October 28, 2008, the Department found that the request for review with respect to Jiangxi Ansun met all of the regulatory requirements set forth in 19 CFR 351.214(b) and initiated an antidumping duty new shipper review. See *Glycine from China: Initiation of Antidumping Duty New Shipper Review*, 73 FR 65584 (November 4, 2008) (*Initiation Notice*). On February 23, 2009, Jiangxi Ansun withdrew its request for a new shipper review.

**Rescission of New Shipper Review**

Section 351.214(f)(1) of the Department's regulations provides that the Department may rescind a new shipper review if the party that requested the review withdraws its request for review within 60 days of the date of publication of the notice of initiation of the requested review. Although Jiangxi Ansun withdrew its request after the 60-day deadline, we find it reasonable to extend the deadline because we have not yet committed significant resources to the Jiangxi Ansun new shipper review, (e.g., we have not issued our preliminary results). Further, we have received a letter from the petitioner GEO Specialty Chemicals Inc., noting that it has no objection to Jiangxi Ansun's withdrawal request for this new shipper review. See Letter from GEO Specialty Chemicals, Inc, dated March 3, 2009. Based upon the above, we are rescinding the new shipper review of the antidumping duty order on glycine from PRC with respect to Jiangxi Ansun.

**Notifications**

We intend to instruct U.S. Customs and Border Protection ("CBP") 15 days from the date of publication of the notice to liquidate any entries by Jiangxi Ansun during the period of review at the cash deposit rate in effect at the time of entry.

This notice serves as a final 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 double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destructions of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return/destruction of APO materials or conveyance to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with section 777(i) of the Act and 19 CFR 351.214(f)(3).

Dated: April 10, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-8861 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-DS-S

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-357-812]

**Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is partially rescinding its administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, to November 30, 2008, with respect to multiple companies. This rescission is based on the timely withdrawal of the request for review by the interested parties that requested the review. A complete list of the companies for which the administrative review is being rescinded is provided below.

**EFFECTIVE DATE:** April 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-3019, respectively.

**Background:**

On December 1, 2008, the Department published in the *Federal Register* its notice of opportunity to request an administrative review of the antidumping duty order on honey from Argentina. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 72764 (December 1, 2008). In response, on December 30, 2008, the Asociacion de Cooperativas Argentinas requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. On December 31, 2008, the American Honey Producers Association and Sioux Honey Association (collectively, petitioners) requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. Specifically, petitioners requested that the Department conduct an administrative review of entries of subject merchandise made by 17 Argentine producers/exporters.<sup>1</sup> Also on December 31, 2008, Nexco S.A. requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. The Asociacion de Cooperativas Argentinas and Nexco S.A. were included in the petitioners' request for review.

On February 2, 2009, the Department initiated a review of the 17 companies for which an administrative review was requested. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 5821 (February 2, 2009) (*Initiation Notice*).

The Department received a request for administrative review from Patagonik S.A. (Patagonik) in response to the December 1, 2008, opportunity to request an administrative review. However, its request was dated January 2, 2009, after the December 31, 2008, deadline. On January 23, 2009, the

<sup>1</sup> Petitioners requested Compania Apicola Argentina S.A. and Mielar S.A. as separate entities. However, in a previous segment of this proceeding, the Department treated these two companies as a single entity.

Department returned the letter requesting an administrative review to Patagonik, stating that the request was untimely and that the Department would not initiate a review based on this request. See Letter from the Department of Commerce to Patagonik S.A., dated January 23, 2009. On February 23, 2009, Patagonik submitted a letter requesting that the Department reconsider its decision not to initiate a review based on Patagonik's request. Patagonik provided information to the Department indicating the reasons for the untimely filing of the request. After examining the information, the Department again declined to initiate an administrative review based on Patagonik's request. See Letter from the Department of Commerce to Patagonik S.A., dated March 17, 2009.

On March 6, 2009, petitioners timely withdrew their requests for review of the following companies: AGLH S.A., Algodonera Avellaneda S.A., Alimentos Naturales-Natural Foods, Alma Pura, Bomare S.A. (Bodegas Miguel Armengol), Compania Apicola Argentina S.A. and Mielar S.A., Compania Inversora Platense S.A., EL Mana S.A., HoneyMax S.A., Interrupcion S.A., Miel Ceta SRL, Patagonik S.A., Productos Afer S.A., Seabird Argentina S.A., and Seylinco S.A.

#### Scope of the Order

The merchandise covered by the order is honey from Argentina. The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise under the scope of the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the Department's written description of the merchandise under this order is dispositive.

#### Rescission, in Part, of Administrative Review

Section 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that

requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request.

The petitioners timely withdrew their requests for an administrative review within the 90-day deadline for the following companies: AGLH S.A., Algodonera Avellaneda S.A., Alimentos Naturales-Natural Foods, Alma Pura, Bomare S.A. (Bodegas Miguel Armengol), Compania Apicola Argentina S.A. and Mielar S.A., Compania Inversora Platense S.A., EL Mana S.A., HoneyMax S.A., Interrupcion S.A., Miel Ceta SRL, Patagonik S.A., Productos Afer S.A., Seabird Argentina S.A., and Seylinco S.A. Because the petitioners were the only party to request administrative reviews of each of these companies, we are rescinding the review with regard to AGLH S.A., Algodonera Avellaneda S.A., Alimentos Naturales-Natural Foods, Alma Pura, Bomare S.A. (Bodegas Miguel Armengol), Compania Apicola Argentina S.A. and Mielar S.A., Compania Inversora Platense S.A., EL Mana S.A., HoneyMax S.A., Interrupcion S.A., Miel Ceta SRL, Patagonik S.A., Productos Afer S.A., Seabird Argentina S.A., and Seylinco S.A.

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after the publication of this notice. The Department will direct CBP to assess antidumping duties for these companies at the cash deposit rate in effect on the date of entry for entries during the period December 1, 2007, to November 30, 2008.

#### Respondent Selection

On February 10, 2009, the Department issued a respondent selection memorandum containing import data from proprietary CBP records for the period December 1, 2007, to November 30, 2008. In the memorandum, the Department stated that it intended to limit the number of companies examined in this period of review. As petitioners have withdrawn their request for 15 of the 17 companies listed in the *Initiation Notice*, it is no longer necessary to limit the number of companies examined in this period of review. Consequently, we will individually examine the two remaining companies for which an administrative review has been requested: Asociacion

de Cooperativas Argentinas and Nexco S.A.

#### Notification to Parties

This notice serves as a reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of time. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

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 section 351.305(a)(3) of the Department's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with section 351.213(d)(4) of the Department's regulations and sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: April 9, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-8864 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-DS-5

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-552-801

#### Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of the Fourth Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** April 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Alan Ray, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC, 20230; telephone: (202) 482-5403.



## SUPPLEMENTARY INFORMATION:

## Amendment to the Final Results:

In accordance with sections 751(h) and 777(i)(1) of the Tariff Act of 1930, as amended, ("Act"), on March 9, 2009, the Department of Commerce ("Department") issued<sup>1</sup> the final results in the antidumping administrative review of certain frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam"). See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 11349 (March 17, 2009) ("Final Results").

On March 17, 2009, Petitioners<sup>2</sup> and QVD Food Company Ltd. ("QVD") filed timely allegations that the Department made various ministerial errors in the *Final Results* and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors in the calculation of the margins for QVD. On March 23, 2009, Petitioners and QVD filed rebuttal comments with respect to these ministerial error allegations. No other party in this proceeding submitted comments on the Department's final margin calculations.

A ministerial error is defined as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Department considers ministerial." See section 751(h) of the Act; see also 19 CFR 351.224(f).

After analyzing all interested party comments and rebuttals, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made ministerial errors in our calculations for the final results with respect to QVD. For a detailed discussion of these ministerial errors, as well as the Department's analysis of these errors and other allegations raised, see Memorandum to James C. Doyle, Director, Office 9, through Alex Villanueva, Program Manager, from Alan Ray, Case Analyst: Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Analysis of Ministerial Error Allegations, (April 8, 2009) ("Ministerial Error Memo").

Additionally, in the *Final Results*, we determined that several companies qualified for a separate rate. See *Final Results* at 11350. The separate rate was

based on the margin for QVD, the only mandatory respondent that received a calculated margin. The margin for QVD did not change following revisions made to the *Final Results*. Accordingly the margin for QVD and for the separate companies remains at 0.52 percent. Moreover, we note that the errors did not affect the Vietnam-Wide entity rate, and thus it will not be revised.

Therefore, in accordance with section 751(h) of the Act, we are amending the final results in the antidumping duty administrative review of certain frozen fish fillets from the Vietnam. After correcting these ministerial errors, the final weighted-average dumping margins remain as follows:

## CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/Exporter	Weighted-Average Margin
Q / D <sup>3</sup> .....	0.52 %
Agifish <sup>4</sup> .....	0.52 %
Anvifish <sup>4</sup> .....	0.52 %
Vietnam-Wide Entity <sup>5</sup> ...	63.88 %

<sup>3</sup> This rate is applicable to the QVD Single Entity which includes QVD, QVD Dong Thap, and Thuan Hung Co. Ltd.

<sup>4</sup> For the exporters subject to review that are determined to be eligible for separate-rate status, but were not selected as mandatory respondents, the Department normally establishes a weighted-average margin based on an average of the rates it calculated for the mandatory respondents, excluding any rates that are zero, de minimis, or based entirely on facts available. In this proceeding, there is only one such mandatory respondent, QVD. Accordingly, the rate calculated for QVD is applied as the rate for Agifish and Anvifish.

<sup>5</sup> This includes An Xuyen.

## Assessment Rates

The Department intends to issue assessment instructions to U.S. Customs and Border Protection ("CBP") 15 days after the date of publication of these amended final results of review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review.

## Cash Deposit Requirements

The following deposit requirements will be effective retroactively on any entries made on or after March 17, 2009, the date of publication of the *Final Results*, for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by QVD, Agifish, or Anvifish the cash deposit rate will be 0.53% ad-valorem; (2) for previously reviewed or investigated exporters not listed above that have separate rates, the cash

deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of 63.88 percent; and (4) for all non-Vietnamese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied that non-Vietnamese exporter. These deposit requirements shall remain in effect until further notice. In the 2nd administrative review, the Department stated that we would collect cash deposits and issue assessment instructions on a per-unit basis. See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Second Administrative Review*, 72 FR 13242, 13244 (March 21, 2007). Therefore, we intend to issue CBP instructions on that basis.

## Notification of Interested Parties

This notice also serves as a final 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

We are issuing and publishing these amended final results of review and notice in accordance with sections 751(a) and 777(i) of the Act.

Dated: April 9, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-8871 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-DS-S

<sup>1</sup> The Department publicly announced the final results on March 10, 2009.

<sup>2</sup> Catfish Farmers of America and individual U.S. catfish processors.

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

RIN 0648-AX82

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 2 to the Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands and Amendment 5 to the Reef Fish Fishery Management Plan of Puerto Rico and the U.S. Virgin Islands**

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

**ACTION:** Notice of intent to prepare a draft environmental impact statement (DEIS); scoping meetings; request for comments.

**SUMMARY:** The Caribbean Fishery Management Council (Council) and NMFS intend to prepare a DEIS to describe and analyze management alternatives to be included in an amendment to the Fishery Management Plan (FMP) for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands and the FMP for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands. These alternatives will consider measures to implement annual catch limits (ACLs), accountability measures (AMs), permits, and recordkeeping and reporting requirements. The purpose of this notice of intent is to solicit public comments on the scope of issues to be addressed in the DEIS.

**DATES:** Written comments on the scope of issues to be addressed in the DEIS must be received by the Council by May 18, 2009. A series of scoping meetings will be held in April 2009. See **SUPPLEMENTARY INFORMATION** below for the specific dates, times, and locations of the scoping meetings.

**ADDRESSES:** Written comments on the scope of the DEIS and requests for additional information on the amendments should be sent to NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; telephone 727-824-5350; fax 727-825-5308; or to the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918; telephone 787-766-5927; fax 787-766-6239. Comments may also be sent by e-mail to [Jason.Rueter@noaa.gov](mailto:Jason.Rueter@noaa.gov) or [Graciela.Garcia-Moliner@noaa.gov](mailto:Graciela.Garcia-Moliner@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Jason Rueter, phone 727-824-5305; fax 727-824-5308; email

[Jason.Rueter@noaa.gov](mailto:Jason.Rueter@noaa.gov); or Graciela Garcia-Moliner, phone 787-766-5927; fax 787-766-6239; e-mail [Graciela.Garcia-Moliner@noaa.gov](mailto:Graciela.Garcia-Moliner@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On January 12, 2007, Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (MSA) with passage of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). While maintaining the requirement that "conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry," the MSRA added new requirements to end and prevent overfishing. The new requirement is the use of ACLs, including "measures to ensure accountability."

Specifically, the MSRA requires that FMPs "establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability" (MSRA Section 303(a)(15)). Further, the MSRA requires such measures be implemented by 2010 for fisheries determined by the Secretary of Commerce (Secretary) to be subject to overfishing and by 2011 for all other fisheries.

Currently, there are five species or species groups undergoing overfishing in the U.S. Caribbean. These groups are: Queen Conch (*Strombus gigas*), Parrotfish, Grouper Unit 1 (Nassau grouper), Grouper Unit 4 (tiger, yellowfin, red, misty, and yellowedge grouper), and Snapper Unit 1 (black, blackfin, silk, and vermilion snapper). These determinations were made during development of the Council's Sustainable Fisheries Act Amendment (SFA), as no stock assessments had yet been able to determine stock status in the U.S. Caribbean. These determinations were based on the informed judgment of those involved in the SFA working group, which included Federal, state, and local managers, scientists, and constituents.

In an effort to set ACLs for these species and species groups, the Council, based on advice from its Scientific and Statistical Committee (SSC), convened a Technical Monitoring and Compliance Team (TMCT), whose task was to identify available data in the U.S. Caribbean and to recommend the appropriate data set to a second group, the Annual Catch Limit Group (ACLG). The ACLG, which was similar to the

SFA working group, consisted of Federal, state, and local managers, scientists, and constituents. The ACLG was tasked to analyze the available data and make recommendations for required provisions of the National Standard 1 (NS1) Guidelines to the SSC.

Concurrent with the work of these groups, the Southeast Data, Assessment, and Review (SEDAR) process convened to evaluate all available data in the U.S. Caribbean in support of ACL development. The SEDAR findings, along with those of the ACLG were presented to the SSC for development of overfishing limits (OFL) and allowable biological catch (ABC) limits, as required by the NS1 guidelines (74 FR 3178). The SSC accepted eight scenarios for evaluation of available data developed by the ACLG. Each species or species group was examined via the scenario process and appropriate scientific advice was provided based on the outcome of the scenario. For the species and species groups listed above, the SSC determined no OFL or ABC could be provided. Therefore, the SSC could not refute the catch level recommendations of the ACLG which were derived from average annual landings in recent years (NOTE: use of the appropriate "recent years" was based on a case-by-case basis for each of the species and species groups).

In addition to providing advice on the provisions of the NS1 guidelines, the ACLG and SEDAR groups recommended modifications to stock complexes within the Council's fishery management units. These recommendations were developed based on the empirical landings data, biological characteristics of the species involved, and discussion with fishermen. The SSC agreed with these recommendations and also developed their own recommendation to divide the Parrotfish group into two separate units. Specific reorganization recommendations will be evaluated in the management alternatives section.

The Council will develop a DEIS to describe and analyze management alternatives to implement ACLs, AMs, permits, and recordkeeping and reporting requirements. The amendment will provide updates to the best available scientific information regarding the species and species groups listed, and based on the information, the Councils will determine what actions and alternatives are necessary to meet the statutory requirements for these stocks by 2010. Those alternatives may include, but are not limited to: a "no action" alternative regarding the fishery; alternatives to implement ACLs based on varying approaches; alternatives to establish a permitting system; and



alternatives to establish new recordkeeping and reporting requirements.

In accordance with NOAA's Administrative Order NAO 216-6, Section 5.02(c), the Council and NMFS have identified this preliminary range of alternatives as a means to initiate discussion for scoping purposes only. This may not represent the full range of alternatives that eventually will be evaluated by the Council and NMFS.

Once the Council and NMFS complete the DEIS associated with the Amendments to the FMP for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands and the FMP for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands, it must be approved by a majority of the voting members, present and voting, of the Council. After the Council approves this document, the DEIS and associated amendments will be submitted to NMFS for filing with the Environmental Protection Agency (EPA). The EPA will publish a notice of availability of the DEIS for public comment in the *Federal Register*. The DEIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500-1508) and to NOAA's Administrative Order 216-6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council and NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS) and before adopting final management measures for the amendment. The Council will submit both the final joint amendment and the supporting FEIS to NMFS for review by the Secretary under the MSA.

NMFS will announce, through a notice published in the *Federal Register*, the availability of the final joint amendment for public review during the Secretarial review period. During Secretarial review, NMFS will also file the FEIS with the EPA for a final 30-day public comment period. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve the final joint amendment.

NMFS will announce, through a notice published in the *Federal Register*, all public comment periods on the final joint amendment, its proposed implementing regulations, and its associated FEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the

proposed regulations, or the FEIS, prior to final agency action.

#### Scoping Meeting Dates, Times, and Locations

All scoping meetings are scheduled to be held from 7 p.m. to 10 p.m. The meetings will be physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**).

April 27—Doubletree by Hilton San Juan, De Diego Avenue, San Juan, Puerto Rico.

April 28—Holiday Inn and Tropical Casino Ponce, 3315 Ponce By Pass, Ponce, Puerto Rico.

April 29—Salon B, Centro de Usos Múltiples, Doctor Lopez and Celis Aguilera Street, Fajardo, Puerto Rico.

May 4—Mayaguez Resort and Casino, Road 104, Km. 0.3, Mayaguez, Puerto Rico.

May 6—Community Center, Frenchtown, St. Thomas, U.S. Virgin Islands.

May 7—The Florence Williams Public Library, 1122 King Street, Christiansted, St. Croix, U.S. Virgin Islands.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** April 10, 2009

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-8888 Filed 4-16-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Notice of Inventions Available for Licensing

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of inventions available for licensing.

**SUMMARY:** The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Secretary of Commerce. The U.S. Government's interest in these inventions is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

**FOR FURTHER INFORMATION CONTACT:** Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Attn: Mary Clague, Building 222, Room A240,

Gaithersburg, MD 20899. Information is also available via telephone: 301-975-4188, fax 301-975-3482, or e-mail: [mary.clague@nist.gov](mailto:mary.clague@nist.gov). Any request for information should include the NIST Docket number and title for the invention as indicated below.

**SUPPLEMENTARY INFORMATION:** NIST may enter into a Cooperative Research and Development Agreement ("CRADA") with the licensee to perform further research on the invention for purposes of commercialization. The inventions available for licensing are:

#### [NIST Docket Number: 06-003]

**Title:** Zeroeth Order Imaging.

**Abstract:** The invention provides a method of imaging critical dimensions by measuring the zeroeth order of diffracted light. The method involves providing a target, directing light onto the target so as to cause the target to diffract the light. The zeroeth order of the diffracted light is collected and analyzed to determine structural features of the target. The target can be an article of manufacture, such as a semiconductor device, or a separate target that is provided or fabricated on an article of manufacture. One of at least the wavelength and the angle at which the light is directed onto the target can be scanned. The target can fill all or only a portion of the field of view.

#### [NIST Docket Number: 08-013]

**Title:** The Microfluidic Palette: Generation of Multiple Chemical Gradients Within a Microfluidic Chamber.

**Abstract:** This invention is jointly owned with KT Consulting, Inc. The invention is a microfluidic device, capable of generating multiple spatial chemical gradients simultaneously inside a microfluidic chamber. The chemical gradients are generated by diffusion, without convection, and can either be maintained constant over long time periods, or modified dynamically. A representative device is described with a circular chamber in which diffusion occurs, with three access ports for the delivery and removal of solutes. A gradient typically forms in minutes, and can be maintained constant indefinitely. The device can also be used to evaluate chemotactic responses of bacteria or other microorganisms in the absence of convective flow.

#### [NIST Docket Number: 08-033]

**Title:** A New Technique for Combinational Circuit Optimization and a New Circuit for the S-box of AES.

**Abstract:** This invention is jointly owned with the University of Southern Denmark. The invention provides a new

technique for combinational circuit optimization. The technique is a two-step process. In the first step, the non-linearity of the circuit—as measured by the number of nonlinear gates it contains—is reduced. The second step reduces the number of gates in the linear components of the circuit. The technique can be applied to arbitrary circuits, and seems to yield improvements even on circuits that have already been optimized by standard methods. The technique is applied to the S-box of the Advanced Encryption Standard (AES). The result is, as far as we know, the smallest circuit yet constructed for this function.

Dated: April 7, 2009.

Patrick Gallagher,

Deputy Director.

[FR Doc. E9-8873 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-13-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XO55

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Monkfish Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow eight commercial fishing vessels to conduct research and compensation fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would enable

vessels to harvest monkfish granted through the Monkfish Research Set-Aside (RSA) Program, would grant exemptions from restrictions of the Gulf of Maine (GOM) Rolling Closure Areas (RCA) I and II and from the monkfish days-at-sea (DAS) possession limits in the Southern and Northern Fishery Management Areas.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before May 4, 2009.

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

- Email: [DA8-057@noaa.gov](mailto:DA8-057@noaa.gov). Include in the subject line "Comments on UMES Monkfish RSA EFP."

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on UMES monkfish RSA EFP, DA8-057."

- Fax: (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Emily Bryant, Fishery Management Specialist, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** An application for an EFP was submitted by the University of Maryland Eastern Shore (UMES) on March 11, 2009, for a project selected under the New England and Mid-Atlantic Fishery Management Councils' Monkfish RSA Program. The purpose of the project is to investigate the influence of temperature on monkfish distribution and abundance. This EFP would grant an exemption from monkfish possession limits to eight vessels for the purpose of research and RSA harvest to fund this research project (i.e., compensation fishing).

While conducting RSA compensation trips, the vessels would use gillnets that are 12-inch (30-cm) stretch mesh with a 3.5-inch (9-cm) diameter gauge web that is 12 meshes deep. The nets do not exceed 300 ft (91 m) in length. Average soak times differ between vessels, with a range of 36 to 120 hours. Each vessel would receive two temperature and depth loggers to attach to gillnets during RSA fishing trips. The loggers would collect temperature and depth at intervals of 1 hour, and will be downloaded approximately every two months. Catch data (number and size of monkfish) from panels with probes would be recorded by collaborating fishermen, along with information on location, depth fished, water currents, and lunar cycle. UMES plans to collect

histological samples on board the fishing vessels from a subset of trips for analysis of reproductive condition. Length measurements would be taken each trip from a minimum of 25 randomly selected monkfish from the nets with attached temperature probes to gain information about fish distribution. The smallest samples would measure 17 inches (43 cm) in length. Additional catch, within applicable size and possession limits, would be sold to help offset the costs of the research.

Compensation fishing for this research would occur from May 2009 through April 2010. The eight fishing industry collaborators would have access to 105 monkfish DAS that will be awarded to the project through the Monkfish RSA Program. In order to achieve the target catch to fund the project, these fishing activities would require an exemption from monkfish DAS possession limits at 50 CFR 648.94(b)(2). This exemption would provide these eight vessels with the flexibility they need to generate sufficient income to meet projected costs of the research activity, while minimizing operating expenses. Based on the preliminary award of 105 DAS, this would require a total catch of 340,046 lb (154,242 kg) of whole monkfish (102,424 lb (46,459 kg) tail weight). Operating under this total landings cap, compensation fishing would continue until the required goal of 340,046 lb (154,242 kg) of whole monkfish is met, or until the awarded DAS have been fully utilized, whichever occurs first. Aside from this exemption, fishing activity would be conducted under normal commercial practices.

In addition, this EFP would also allow five of the eight vessels to fish for monkfish using gillnets inside the GOM and would require exemption from the restrictions of RCAs I and II that will be in effect during April 2009 and March 2010. It is expected that these locations, within the rolling closure areas, would provide access to large monkfish and would avoid gear interactions between the research gillnet gear and trawl gear. These locations also coordinate with the locations from previous years' research.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited. If

the research project is terminated for any reason prior to completion, any unused funds collected from catch sold to pay for research expenses may be refunded to NOAA.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** April 13, 2009.

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-8889 Filed 4-16-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XO29**

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Monkfish Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow 24 commercial fishing vessels to conduct compensation fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would enable vessels to harvest monkfish granted through the Monkfish Research Set-Aside (RSA) Program, would grant exemptions from the monkfish days-at-sea (DAS) possession limits in the Southern and Northern Fishery Management Areas.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of

this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before May 4, 2009.

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

- Email: [DA9-071@noaa.gov](mailto:DA9-071@noaa.gov). Include in the subject line "Comments on Monkfish RSA Harvest EFP."

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on monkfish RSA harvest EFP, DA9-071."

- Fax: (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:**

Emily Bryant, Fishery Management Specialist, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** An application for an EFP was submitted by Gulf of Maine Research Institute on March 5, 2009, for a project selected under the New England and Mid-Atlantic Fishery Management Councils' Monkfish RSA Program. The project itself will investigate a multi-method approach for determining age in monkfish through lab trials utilizing monkfish samples obtained through a previously issued Letter of Authorization. This EFP would grant an exemption from monkfish possession limits to 24 vessels for the purpose of harvesting RSA to fund this research project (i.e. compensation fishing). Funds generated by the compensation fishing will be used to pay for laboratory equipment, as well as salaries and stipends for principal investigators.

Compensation fishing for this research would occur from May 2009 through April 2010. The 24 fishing industry collaborators would have access to 203 monkfish DAS that will be awarded to the project through the Monkfish RSA Program. The applicant states that these vessels must be able to land at least 3,000 lb (1,361 kg) of whole monkfish (904 lb (410 kg) tail weight) per trip to achieve the goal of \$2,800 per RSA DAS. In order to achieve this target catch, these fishing activities would require an exemption from monkfish DAS possession limits at 50 CFR 648.94(b)(2). This exemption would provide these 24 vessels with the flexibility they need to generate sufficient income to meet projected costs of the research activity, while minimizing operating expenses. Based on the preliminary award of 203 DAS, this would require a total catch of 609,000 lb (276,238 kg) of whole monkfish (183,434 lb (83,204 kg) tail weight). Operating under this total

landings cap, compensation fishing would continue until the required goal of 609,000 lb (276,238 kg) of whole monkfish is met, or until the awarded DAS have been fully utilized, whichever occurs first. Aside from this exemption, fishing activity would be conducted under normal commercial practices.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited. If the research project is terminated for any reason prior to completion, any unused funds collected from catch sold to pay for research expenses may be refunded to NOAA.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** April 13, 2009.

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-8890 Filed 4-16-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XO34**

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Monkfish Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to

issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow 24 commercial fishing vessels to conduct research and compensation fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would enable vessels to harvest monkfish granted through the Monkfish Research Set-Aside (RSA) Program, would grant exemptions from the monkfish days-at-sea (DAS) possession limits in the Southern (SFMA) and Northern (NFMA) Fishery Management Areas, as well as exempt vessels from monkfish minimum size limits for on-board tagging purposes only.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before May 4, 2009.

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

- Email: [DA9-072@noaa.gov](mailto:DA9-072@noaa.gov). Include in the subject line "Comments on Monkfish Tagging EFP."
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on monkfish tagging EFP, DA9-072."
- Fax: (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Emily Bryant, Fishery Management Specialist, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** An application for an EFP was submitted on March 5, 2009, for a project selected under the New England and Mid-Atlantic Fishery Management Councils' Monkfish RSA Program. The specific goals of the project are to determine monkfish movement patterns and compare 2009 migratory patterns to those observed in 2007. This EFP would grant an exemption from monkfish possession limits to 24 vessels for the purpose of harvesting RSA to fund this research project (i.e. compensation fishing). Funds generated by the compensation fishing will be used to pay for laboratory equipment, as well as salaries and stipends for principal investigators. This EFP would also exempt vessels from the monkfish minimum size restrictions for the purpose of tagging monkfish during compensation fishing activities. No

undersized monkfish would be landed for sale.

Fishing would occur in the NFMA in statistical areas 513 and 514. In the SFMA, research would occur in statistical areas 536, 537, 612, 613, 614, 615, 645, and 631. These statistical areas break down into five study regions: The NFMA; northeast SFMA; offshore SFMA; central SFMA; and southern SFMA. Standard commercial gillnet net gear would be used following normal commercial operating procedures. The total number of days fishing will not exceed 141. The total number of hauls per day will be four, with a total of 50 nets per vessel, and a soak time of 24 to 72 hours. Researchers will tag 1,000 monkfish using T-bar tags in each of the five regions, for a total of 5,000 tagged individuals. In order to possess undersized monkfish on board vessels for the purpose of tagging, this research activity requires an exemption from monkfish minimum size limits at 50 CFR 648.93. No fish below minimum size would be landed for sale.

Compensation fishing would occur May 2009 through April 2010, with tagging conducted in May through June 2009, except in the southern region of the SFMA, where tagging would be conducted in March through April 2010.

The 24 fishing industry collaborators would have access to 141 monkfish DAS that have been preliminarily awarded to the project through the Monkfish RSA Program. The applicant states that these vessels must be able to land at least 3,000 lb (1,361 kg) of whole monkfish (904 lb (410 kg) tail weight) per trip to achieve the goal of \$2,800 per RSA DAS. In order to achieve this target catch, these fishing activities would require an exemption from monkfish DAS possession limits at § 648.94(b)(2). This exemption would provide these 24 vessels with the flexibility they need to generate sufficient income to meet projected costs of the research activity, while minimizing operating expenses. Based on the preliminary award of 141 DAS, this would require a total catch of 423,000 lb (191,870 kg) of whole monkfish (127,410 lb (57,792 kg) tail weight). Operating under this total landings cap, compensation fishing would continue until the required goal of 423,000 lb (191,870 kg) of whole monkfish is met, or until the awarded DAS have been fully utilized, whichever occurs first.

Aside from these exemptions, fishing activity will be conducted under normal commercial practices.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without

further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited. If the research project is terminated for any reason prior to completion, any unused funds collected from catch sold to pay for research expenses may be refunded to NOAA.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** April 13, 2009.

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-8887 Filed 4-16-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XO37**

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; receipt of exempted fishing permit application.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States.



Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before May 4, 2009.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on the Massachusetts Haddock Trawl Study." Comments may also be sent via facsimile (fax) to (978) 281-9135, or submitted via e-mail to the following address: [DA9052@noaa.gov](mailto:DA9052@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Allison Murphy, Fishery Management Specialist, (978) 281-9122, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** A complete application for an EFP was submitted on February 27, 2009, by David Chosid and Michael Pol of the Massachusetts Division of Marine Fisheries (DMF). The project was funded by the DMF/University of Massachusetts, Dartmouth, School for Marine Science and Technology, Marine Fisheries Institute grant program. The primary goal of the research is to test the effectiveness of a sweepless (no ground gear) raised footrope, semi-pelagic trawl, referred to as the "5-point trawl" net. This net was designed to minimize the catch of Atlantic cod while maximizing the catch of haddock. The intent of the researchers is that the experimental net, if successful, could potentially be an acceptable alternative trawl design to be used in the groundfish fishery.

The project is a continuation of research previously conducted in 2006 and 2007 by DMF, which has preliminarily shown that this new trawl net design significantly reduces the bycatch of cod, as compared to the standard trawl used. The experimental net was designed to exploit the differences in behavior of haddock and cod in relation to towed gears. Similar to the haddock separator trawl, this experimental net proposes to reduce cod mortality; however, it avoids some of the complexities associated with separator trawls, since, under the experimental net, the cod would not pass through meshes, or encounter grids or escape vents. Although this study would focus on reducing cod-haddock interactions, this net may also reduce the bycatch of flatfish species such as winter flounder, yellowtail flounder, witch flounder, and American plaice.

All fish would be sorted and weighed, and fish of legal size would be retained for sale. All discards would be released as quickly as practicable to reduce incidental mortality. Exemptions from the NE multispecies possession limits at 50 CFR 648.86, the U.S. Canada Management Area harvest control regulations at § 648.85(a)(3)(iv), the U.S./Canada Management Area gear requirements for trawl nets at § 648.85(a)(3)(iii), and the Eastern U.S./Canada Area May 1–July 31 seasonal trawl gear prohibition specified under the Regional Administrator's authority, are necessary because valid testing of the experimental nets would require continued sampling after daily and overall trip limits have been reached for certain species in order to obtain adequate replicates for analysis. The participating vessel would be subject to any U.S./Canada Management Area Closures or possession prohibitions due to the achievement of a cod, haddock, or yellowtail flounder Total Allowable Catch (TAC). Based on catch data from previous experimental tows with this net design, the researchers anticipate that a total of 24.2 mt of fish would be harvested throughout the course of the study. All proceeds from the sale of the fish would be returned to DMF for the purpose of enhancing future research. Following is the total estimated catch and discards by species: Cod, 3.20 mt; haddock, 1.60 mt; pollock, 0.00 mt; witch flounder, 0.10 mt; yellowtail flounder, 0.40 mt; winter flounder, 2.00 mt; American plaice, 0.40 mt; monkfish, 0.90 mt; spiny dogfish, 1.20 mt; skates, 8.80 mt; American lobster, 0.60 mt; and other discards, 5.00 mt.

All at-sea research would be conducted from one fishing vessel, which intends to fish in the Eastern U.S./Canada Haddock Special Access Program (SAP). A total of 7 days would be used for testing the experimental trawl. An anticipated 84 1-hour tows would be conducted during that time. DMF staff would be aboard the vessel at all times during testing.

Based on preliminary review of this project, and in accordance with NOAA Administrative Order 216-6, a Categorical Exclusion from requirements to prepare either an Environmental Impact Statement or an Environmental Assessment under the National Environmental Policy Act appears to be justified. The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not

change the scope or impact of the initially approved EFP request.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 13, 2009.

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-8906 Filed 4-16-09; 8:45 am]

BILLING CODE 3510-22-S

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Agency Information Collection Activities; Proposed Information Collection; Comment Request

**ACTION:** Submission for OMB review; comment request.

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

**SUMMARY:** The Committee is submitting to the Office of Management and Budget for their review the following collection as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Committee Form 403—Annual Certification—Qualified Nonprofit Agency Serving People Who Are Blind.

Committee Form 404—Annual Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled.

**DATES:** Interested persons are invited to submit comments about the collection on or before May 13, 2009. The agency's 60-day notice informing the public of the intent to renew this form with no changes was published in the *Federal Register* on February 3, 2009 on page 5913-5914. A subsequent correction notice was published on February 13, 2009 on page 7216.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Jasmeet K. Seehra, OMB Desk Officer, by any of the following two methods within 30 days from the date of publication in the *Federal Register*: (1) By fax to: (202) 395-6974, Attention: Ms. Jasmeet K. Seehra, OMB Desk Office; and (2) Electronically by e-mail to: [Jasmeet\\_K\\_Seehra@omb.eop.gov](mailto:Jasmeet_K_Seehra@omb.eop.gov).

Requests for copies of documents pertaining to the collection should be addressed to Committee for Purchase From People Who Are Blind or Severely Disabled, Attention: Edward Yang, Information Technology Specialist, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA

22202-3259 or e-mailed to [eyang@abilityone.gov](mailto:eyang@abilityone.gov).

**SUPPLEMENTARY INFORMATION:** The Committee has two annual certification forms, one for nonprofit agencies serving people who are blind (Committee Form 403, OMB Control Number 3037-0001) and one for nonprofit agencies primarily serving people who have other severe disabilities (Committee Form 404, OMB Control Number 3037-0002). The information included on the forms is required to ensure that nonprofit agencies that participate in the Committee's program meet the requirements of the Javits-Wagner-O'Day Act (JWOD), 41 U.S.C. 46-48c. One comment was received in response to the agency's 60-day notice informing the public of the intent to renew this form with no changes, which was published in the *Federal Register* on February 3, 2009 on page 5913-5914. A subsequent correction notice was published on February 13, 2009 on page 7216.

*Title:* Annual Certification—Qualified Nonprofit Agency Serving People Who Are Blind, Committee Form 403.

*OMB Number:* 3037-0001.

*Agency Number:* 3037.

*Frequency:* Annually.

*Affected Public:* Nonprofit agencies serving people who are blind that participate in the AbilityOne Program.

*Number of Respondents:* 70.

*Estimated Time per Respondent:* 6 hours.

*Total Burden Hours:* 420.

*Total Annual Costs:* \$12,600.

*Title:* Annual Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled, Committee Form 404.

*OMB Number:* 3037-0002.

*Agency Number:* 3037.

*Frequency:* Annually.

*Affected Public:* Nonprofit agencies serving people with severe disabilities that participate in the AbilityOne Program.

*Number of Respondents:* 555.

*Estimated Time per Respondent:* 6 hours.

*Total Burden Hours:* 3,330.

*Total Annual costs:* \$99,900.

On February 3, 2009, the Committee published a notice in the *Federal Register* (Volume 74, Number 21, pages 5913-5914). A subsequent correction notice was published in the *Federal Register* on February 13, 2009 (Volume 74, Number 29, page 7216). These notices requested public comment on the renewal of annual certification requirements for nonprofit agencies participating in the AbilityOne Program.

The comment period lasted 60 days, ending April 8, 2009. By that date, the Committee received comments from one respondent containing four comments.

The respondent concurred that the Committee has the authority to enforce conditions for participation in the program pursuant to the JWOD Act. However, the respondent inferred that there is sub-regulatory guidance issued by the Committee that should instead be issued through regulation. This information collection request is limited to annual reports from participating nonprofit agencies in the AbilityOne Program which are not affected by any sub-regulatory guidance.

The respondent's next comment questioned the burden estimate by indicating there was no justification, rationale or dollar burden estimate provided. Much of the respondent's comment does not deal with the reporting of data for the annual certification under this specific collection notice, but for the recordkeeping requirement tracked under a separate OMB Paperwork Reduction Act tracking number. Specific justification for the annual certification, including burden and cost estimate, was included in the supporting documentation provided to OMB with the renewal request. The burden estimate used was based on questions asked during actual compliance visits to participating nonprofit agencies and included the time for entering data into the web-based quarterly system and reviewing the draft annual certification by the central nonprofit agencies. As a result of the Committee's review of the process, the previous estimate that had been used since at least 1992 was doubled. The Committee has used a cost estimate of \$30 per hour, therefore the estimated cost to each participating nonprofit would be \$180 or a total burden of \$112,500.

The respondent's next two comments included recommendations for improving the quality, utility and clarity of reporting by participating nonprofit agencies and ways to minimize the burden. While not specifically related to this information collection renewal request, the Committee appreciates all recommendations for improvement in our information collection and overall AbilityOne Program efforts.

**Kimberly Zeich,**

*Deputy Executive Director & COO.*

[FR Doc. E9-8792 Filed 4-16-09; 8:45 am]

BILLING CODE 6353-01-P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED PROCUREMENT LIST

### Proposed Additions and Deletions

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

**ACTION:** Proposed additions to and deletions from Procurement List.

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

**DATES:** *Comments Must Be Received on or Before:* May 18, 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](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. If approved, 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.



Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

#### End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

#### Services

*Service Type/Location:* Food Service & Mess Attendants, SeaBee Camp Covington Guam Support Facility, Resident NMCB, Santa Rita, GU.

*NPA:* Able Industries of the Pacific, Santa Rita, CU.

*Contracting Activity:* Dept of the Navy, FISC Pearl Harbor, HI.

*Service Type/Location:* Warehousing, Redstone Arsenal, Huntsville, AL.

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

*Contracting Activity:* Defense Commissary Agency (DECA), Fort Lee, VA.

#### Deletions

##### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for deletion from the Procurement List.

#### End of Certification

The following products are proposed for deletion from the Procurement List:

#### Products

*NSN:* 7510-01-390-0704—Illuminator/Corrector Stx and Refills.

*NSN:* 7510-01-390-0705—Illuminator/Corrector Stx and Refills.

*NSN:* 7510-01-390-0708—Illuminator/Corrector Stx and Refills.

*NPA:* San Antonio Lighthouse for the Blind, San Antonio, TX.

*Contracting Activity:* GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

*NSN:* 7520-01-483-8903—Paper Cutter, Rotary Precision.

*NPA:* The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.

*Contracting Activity:* GSA/FSS OFC SUP

CTR—Paper Products, New York, NY.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. E9-8742 Filed 4-16-09; 8:45 am]

BILLING CODE 6353-01-P

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Additions and Deletion

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

**ACTION:** Additions to and deletion from Procurement List.

**SUMMARY:** This action adds to the Procurement List a product and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List the service previously furnished by such agency.

**DATES:** *Effective Date:* May 18, 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](mailto:CMTEFedReg@AbilityOne.gov).

#### Additions

On 2/20/2009 and 2/27/2009 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (74 FR 7855 and 74 FR 8903 respectively) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and service and impact of the additions on the current or most recent contractors, the Committee has determined that the product and service 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 product and service to the Government.

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

#### End of Certification

Accordingly, the following product and service are added to the Procurement List:

#### Product

*NSN:* 7510-00-079-7906—Tape, Pressure Sensitive, 2in Tan Package Sealing.

*NPA:* Cincinnati Association for the Blind, Cincinnati, OH.

*Contracting Activity:* Federal Acquisition Service, GSA/FSS OFC SUP CTR—PAPER PRODUCTS, New York, NY.

*Coverage:* A-list for the total Government requirement as specified by the General Services Administration.

#### Service

Base Information Transfer Center (BITC), Multiple Locations, AF Air Combat Command, 740 Arnold Avenue, 1C, Whiteman AFB, MO.

*NPA:* The Arc of the Virginia Peninsula, Inc., Hampton, VA.

*Contracting Activity:* DEPT OF THE AIR FORCE, FA4890 ACC CONS LGC.

#### Deletion

On 2/27/2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (74 FR 38 page 8903) of proposed deletion from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer 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 additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service 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 service deleted from the Procurement List.

**End of Certification**

Accordingly, the following service is deleted from the Procurement List:

*Service*

*Service Type/Location:* Litter Pickup. Tinker Air Force Base, 7615 5th Street, Tinker AFB, OK.

*NPA:* Mid-Del Group Home, Inc., Midwest City, OK

*Contracting Activity:* Dept of the Air Force.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. E9-8741 Filed 4-16-09; 8:45 am]

**BILLING CODE 6353-01-P**

**COMMODITY FUTURES TRADING COMMISSION****Order**

The Commission hereby (1) amends the charter of the Energy Markets Advisory Committee by renaming the committee the "Energy and Environmental Markets Advisory Committee" and substituting the attached "Charter of the Energy and

Environmental Markets Advisory Committee" for the existing charter; (2) adopts the attached Findings in support of the charter amendment; (3) authorizes the Secretary to sign four official copies of the committee charter for filing; and (4) authorizes the filing of the amended charter with the Office of the Secretary; the Library of Congress; the Senate Committee on Agriculture, Nutrition and Forestry; and the House Committee on Agriculture.

Dated: April 10, 2009.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. E9-8824 Filed 4-16-09; 8:45 am]

**BILLING CODE**

**DEPARTMENT OF DEFENSE****Office of the Secretary**

[Transmittal Nos. 09-13]

**36(b)(1) Arms Sales Notification**

**AGENCY:** Department of Defense, Defense Security Cooperation Agency.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. English, DSCA/DBO/CFM, (703) 601-3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 09-13 with attached transmittal, and policy justification.

April 9, 2009.

**Patricia L. Toppings,**

*OSD, Federal Register Liaison Officer,  
Department of Defense.*

**BILLING CODE 5001-06-M**



**DEFENSE SECURITY COOPERATION AGENCY  
201 12TH STREET SOUTH, STE 203  
ARLINGTON, VA 22202-5406**

**The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, DC 20515-6501**

**APR 03 2009**

**Dear Madam Speaker:**

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 09-13, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Mexico for defense articles and services estimated to cost \$60 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

A handwritten signature in black ink that reads "Beth M. McCormick".

**Beth M. McCormick  
Deputy Director**

**Enclosures:**

- 1. Transmittal**
- 2. Policy Justification**

**Same ltr to:**

**House  
Committee on Foreign Affairs  
Committee on Armed Services  
Committee on Appropriations**

**Senate  
Committee on Foreign Relations  
Committee on Armed Services  
Committee on Appropriations**

**Transmittal No. 09-13****Notice of Proposed Issuance of Letter of Offer  
Pursuant to Section 36(b)(1)  
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Mexico
- (ii) **Total Estimated Value:**
- |                          |               |
|--------------------------|---------------|
| Major Defense Equipment* | \$ 42 million |
| Other                    | \$ 18 million |
| TOTAL                    | \$ 60 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** one Persuader Maritime Patrol Aircraft, CASA type CN235-300M-M01, spare and repair parts, support equipment, publications and technical data, personnel training and training equipment, contractor engineering and technical support services, and other related elements of logistics support.
- (iv) **Military Department:** Navy (SCD)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none
- (viii) **Date Report Delivered to Congress:** APR 03 2009

\* as defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION****Mexico –Persuader Maritime Patrol Aircraft, CASA type CN-235-300M-M01**

The Government of Mexico has requested a possible sale of one Persuader Maritime Patrol Aircraft, CASA type CN235-300M-M01, spare and repair parts, support equipment, publications and technical data, personnel training and training equipment, contractor engineering and technical support services, and other related elements of logistics support. The estimated cost is \$60 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve Mexico's fight against criminal organizations, drugs, and gang activities. This proposed sale directly supports the Mexican government and serves the interests of the Mexican people and the U.S.

The proposed sale of the patrol aircraft will allow the Mexican Navy to perform enhanced surveillance missions, which will support its interdiction activities and rapid response of law enforcement in Mexico.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor is EADS North America in Arlington, Virginia. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U. S. Government personnel in country. One contractor representative is requested for a period of four years to provide logistic support services.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. E9-8587 Filed 4-16-09; 8:45 am]  
BILLING CODE 5001-06-C

**DEPARTMENT OF DEFENSE****Office of the Secretary****Notification of Upcoming Meeting of the Defense Advisory Board for Employer Support of the Guard and Reserve (DAB-ESGR)**

**AGENCY:** Department of Defense.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Defense Advisory Board for Employer Support of the Guard and Reserve. This meeting will focus on the status of DoD guidance and policies as related to employers of members of the Guard and Reserve. This meeting is open to the public.

**DATES:** May 7, 2009 from 0800-1600 hours.

**ADDRESSES:** Lee Room, Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

The public is asked to pre-register two weeks in advance of the meeting due to security and/or seating limitations. (See below information for pre-registration.)

**FOR FURTHER INFORMATION CONTACT:** Interested attendees may contact MAJ Elaine M. Gullotta at 703-696-1385 ext 540, or e-mail at [elaine.gullotta@osd.mil](mailto:elaine.gullotta@osd.mil).

**SUPPLEMENTARY INFORMATION:****Agenda**

- 0800 Convene (Mr. James G. Rebholz, Chairman).
- 0805 Approval of Minutes and Due Outs from previous meeting (Mr. James G. Rebholz).

- 0810 Board Discussion: Challenge Questions (Mr. James G. Rebholz, Chairman).
- 0830 Mr. Jay Marrone, Military Legislative assistant to Senator Ted Kennedy.
- 0930 Break.
- 0945 Board Discussion: Legislative issues, Challenge Question Review.
- 1000 The Secretary of Defense (Dr. Robert M. Gates) (invited—not confirmed).
- 1045 Break.
- 1100 DAB-ESGR Recruitment Efforts.
- 1200 Working Lunch, Charter Review and Update (Mr. James G. Rebholz, Chairman).
- 1315 Public Comment.
- 1330 Board Discussion of Public Comment.
- 1400 Employer Support of the Guard and Reserve Brief/DoD Policy (Mr. James G. Rebholz).

- 1420 Break.
- 1430 Status of DAB Recommendation for Employer Notification System (Mr. James G. Rebholz, Chairman).
- 1500 Secretary of Labor (The Honorable Hilda Solis) (invited—not confirmed).
- 1530 Summary of Proceedings and Administrative Announcements (Mr. James G. Rebholz).
- 1600 Adjourn.

**(a) Background**

The purpose of the Board is to provide independent advice and recommendations to the Secretary of Defense on matters that arise from the military obligation of members of the National Guard and Reserve members and the impact on their civilian employment.

**(b) Availability of Materials for the Meeting**

Please see the Federal Advisory Committee Act Web site for copies of any available materials, including draft agendas for the meeting and background information. ([http://www.fido.gov/facadatabase/form\\_meetings.asp](http://www.fido.gov/facadatabase/form_meetings.asp))

**(c) Procedures for Providing Public Comments**

It is the policy of the DAB-ESGR to accept written public comments of any length, and to accommodate oral public comments whenever possible. To facilitate Board discussion at its meetings, the Board may not accept oral comments at all meetings. The Board Staff expect that public statements presented at Board meetings will be focused on the Board's statutory charter and any working group topics.

*Oral Comments:* Speaking times will be confirmed by Board staff on a first-come/first-served basis. To accommodate as many speakers as possible, oral public comments must be no longer than 3 minutes. Because the

Board members may ask questions, reserved times will be approximate. Interested parties must contact MAJ Elaine Gullotta in writing (via mail or e-mail) at least two weeks prior to the meeting.

*Written Comments:* Written comments should be received by the Board staff at least two weeks prior to the meeting date so that the comments may be made available to the Board for consideration prior to the meeting. Written comments should be supplied to MAJ Elaine Gullotta in one of the following formats (Word, PDF) via mail or e-mail at least two weeks prior to the meeting. **Please Note:** The Board operates under the provisions of the Federal Advisory Committee Act, as amended. All public presentations will be treated as public documents and will be made available for public inspection, up to and including being posted on the Federal Advisory Committee Web site.

*Written Comments may be sent to:* Employer Support of the Guard and Reserve, 1555 Wilson Blvd, Suite 200, Arlington, VA 22209, Attention: MAJ Elaine Gullotta.

Dated: April 14, 2009.  
 Morgan E. Frazier,  
 Alternate OSD Federal Register Liaison Officer, Department of Defense.  
 [FR Doc. E9-8839 Filed 4-16-09; 8:45 am]  
 BILLING CODE 5001-06-P

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**U.S. Nuclear Command and Control System Comprehensive Review Advisory Committee**

**AGENCY:** Department of Defense.  
**ACTION:** Meeting notice.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act of

1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. para. 552b, as amended), and 41 CFR para. 102-3.150, the Department of Defense announces the following Federal Advisory Committee meetings of the U.S. Nuclear Command and Control System Comprehensive Review Advisory Committee will take place. This meeting is a continuation of the meeting originally scheduled to be held on February 3, 2009, that was announced in the **Federal Register** on January 23, 2009 (74 FR 4142). The February 3, 2009, meeting was rescheduled to February 18, 2009, and then to March 2, 2009. The March 2, 2009, meeting discussion was continued at another meeting that was held on March 31, 2009.

**DATES:** April 20, 2009 from 0800-1700.  
**ADDRESSES:** Northrop Grumman Washington office in Rosslyn, VA (1000 Wilson Blvd., Suite 2300, Arlington, VA 22209).

**FOR FURTHER INFORMATION CONTACT:** Mr. William L. Jones, (703) 681-1924, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041.

**SUPPLEMENTARY INFORMATION:** Due to scheduling difficulties the committee was unable to finalize its agenda in time to publish notice of its meeting in the **Federal Register** for the 15-calendar days required by 41 CFR 102-3.150(a). Accordingly, the Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the "15-calendar day notification requirement."

*Purpose of the Meetings:* Continuation of 2 and 31 March meetings for the Federal Advisory Committee to continue to review and discuss contents of its Final Report.

**April 20, 2009**

Time	Topic	Presenter
8 a.m.	Administrative Remarks	CAPT Budney, USN (NSS).
8:45 a.m.	Review and Discussion	Advisory Committee.
10:45 a.m.	Break.	
11 a.m.	Review and Discussion	Advisory Committee.
12 p.m.	Lunch.	
1 p.m.	Review and Discussion	Advisory Committee.
3:15 p.m.	Break.	
3:30 p.m.	Deliberations and Guidance	Advisory Committee.
5 p.m.	Adjourn	DFO.

Pursuant to 5 U.S.C. para. 552b, as amended and 41 CFR para. 102-3.155, the Department of Defense has determined that the meeting shall be closed to the public. The Director, U.S.

Nuclear Command and Control System Support Staff, in consultation with his General Counsel, has determined in writing that the public interest requires that all sessions of the committee's

meeting will be closed to the public because they will be concerned with classified information and matters covered by section 5 U.S.C. para. 552b(c)(1).



*Committee's Designated Federal Officer:* Mr. William L. Jones, (703) 681-8681, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041. [William.jones@nss.pentagon.mil](mailto:William.jones@nss.pentagon.mil).

Pursuant to 41 CFR paras. 102-3.105(j) and 102-3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements at any time to the Nuclear Command and Control System Federal Advisory Committee about its mission and functions. All written statements shall be submitted to the Designated Federal Officer for the Nuclear Command and Control System Federal Advisory Committee. He will ensure that written statements are provided to the membership for their consideration. Written statements may also be submitted in response to the stated agenda of planned committee meetings. Contact information for the Designated Federal Officer is listed above.

Dated: April 14, 2009.  
**Morgan E. Frazier,**  
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*  
[FR Doc. E9-8841 Filed 4-16-09; 8:45 am]  
BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Revised Non-Foreign Overseas Per Diem Rates

**AGENCY:** DoD, Per Diem, Travel and Transportation Allowance Committee.

**ACTION:** Notice of Revised Non-Foreign Overseas Per Diem Rates.

**SUMMARY:** The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 263. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 263 is being published

in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

**DATES:** *Effective Date:* May 1, 2009.

**SUPPLEMENTARY INFORMATION:** This document gives notice of revisions in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 262. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: April 9, 2009.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

BILLING CODE 5001-06-M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM	M&IE	MAXIMUM	EFFECTIVE
	LODGING		PER DIEM	
	AMOUNT	RATE	RATE	DATE
	(A) +	(B) =	(C)	
THE ONLY CHANGES IN CIVILIAN BULLETIN 263 ARE UPDATES TO THE RATES FOR HAWAII, MIDWAY AND WAKE ISLANDS.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
BARROW	159	95	254	05/01/2002
BETHEL	139	87	226	01/01/2009
BETTLES	135	62	197	10/01/2004
CLEAR AB	90	82	172	10/01/2006
COLDFOOT	165	70	235	10/01/2006
COPPER CENTER				
05/01 - 09/30	125	84	209	01/01/2009
10/01 - 04/30	95	81	176	01/01/2009
CORDOVA				
05/01 - 09/30	95	78	173	06/01/2007
10/01 - 04/30	85	77	162	06/01/2007
CRAIG				
05/16 - 09/30	236	80	316	07/01/2008
10/01 - 05/15	151	71	222	07/01/2008
DELTA JUNCTION	135	80	215	07/01/2008
DENALI NATIONAL PARK				
06/01 - 08/31	135	80	215	01/01/2009
09/01 - 05/31	79	74	153	01/01/2009
DILLINGHAM				
04/15 - 10/15	185	83	268	01/01/2009
10/16 - 04/14	169	82	251	01/01/2009
DUTCH HARBOR-UNALASKA	121	86	207	01/01/2009
EARECKSON AIR STATION	90	77	167	06/01/2007
EIELSON AFB				
05/01 - 09/15	175	88	263	02/01/2009
09/16 - 04/30	75	79	154	02/01/2009
ELMENDORF AFB				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
FAIRBANKS				
05/01 - 09/15	175	88	263	02/01/2009
09/16 - 04/30	75	79	154	02/01/2009
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	135	80	215	07/01/2008
FT. RICHARDSON				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
FT. WAINWRIGHT				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT		M&IE RATE		MAXIMUM PER DIEM RATE		EFFECTIVE DATE
	(A)	+	(B)	=	(C)		
05/01 - 09/15	175		88		263	02/01/2009	
09/16 - 04/30	75		79		154	02/01/2009	
GLENNALLEN							
05/01 - 09/30	125		84		209	01/01/2009	
10/01 - 04/30	95		81		176	01/01/2009	
HAINES	109		75		184	01/01/2009	
HEALY							
06/01 - 08/31	135		80		215	01/01/2009	
09/01 - 05/31	79		74		153	01/01/2009	
HOMER							
05/15 - 09/15	167		85		252	01/01/2009	
09/16 - 05/14	79		78		157	01/01/2009	
JUNEAU							
05/01 - 09/30	149		85		234	01/01/2009	
10/01 - 04/30	109		80		189	01/01/2009	
KAKTOVIK	165		86		251	05/01/2002	
KAVIK CAMP	150		69		219	05/01/2002	
KENAI-SOLDOTNA							
05/01 - 08/31	129		92		221	04/01/2006	
09/01 - 04/30	79		87		166	04/01/2006	
KENNICOTT	259		94		353	01/01/2009	
KETCHIKAN							
05/01 - 09/30	140		83		223	01/01/2009	
10/01 - 04/30	98		78		176	01/01/2009	
KING SALMON							
05/01 - 10/01	225		91		316	05/01/2002	
10/02 - 04/30	125		81		206	05/01/2002	
KLAWOCK							
05/16 - 09/30	236		80		316	07/01/2008	
10/01 - 05/15	151		71		222	07/01/2008	
KODIAK							
05/01 - 09/30	136		85		221	01/01/2009	
10/01 - 04/30	99		82		181	01/01/2009	
KOTZEBUE	179		93		272	07/01/2008	
KULIS AGS							
05/01 - 09/15	181		97		278	04/01/2007	
09/16 - 04/30	99		89		188	04/01/2007	
MCCARTHY	259		94		353	01/01/2009	
MCGRATH	165		69		234	10/01/2006	
MURPHY DOME							
05/01 - 09/15	175		88		263	02/01/2009	
09/16 - 04/30	75		79		154	02/01/2009	
NOME	135		97		232	02/01/2009	
NUIQSUT	180		53		233	05/01/2002	
PETERSBURG	100		71		171	07/01/2008	
PORT ALSWORTH	135		88		223	05/01/2002	

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING		M&IE RATE	MAXIMUM PER DIEM		EFFECTIVE DATE
	AMOUNT (A)	+		=	RATE (C)	
SELDOVIA						
05/15 - 09/15	167		85		252	01/01/2009
09/16 - 05/14	79		78		157	01/01/2009
SEWARD						
05/01 - 09/30	174		85		259	01/01/2009
10/01 - 04/30	99		77		176	01/01/2009
SITKA-MT. EDGEUMBE						
05/01 - 09/30	119		80		199	01/01/2009
10/01 - 04/30	99		77		176	01/01/2009
SKAGWAY						
05/01 - 09/30	140		83		223	01/01/2009
10/01 - 04/30	98		78		176	01/01/2009
SLANA						
05/01 - 09/30	139		55		194	02/01/2005
10/01 - 04/30	99		55		154	02/01/2005
SPRUCE CAPE						
05/01 - 09/30	136		85		221	01/01/2009
10/01 - 04/30	99		82		181	01/01/2009
ST. GEORGE	129		55		184	06/01/2004
TALKEETNA	100		89		189	07/01/2002
TANANA	135		97		232	02/01/2009
TOGIAK	100		39		139	07/01/2002
TOK						
05/01 - 09/30	109		72		181	01/01/2009
10/01 - 04/30	99		71		170	01/01/2009
UMIAT	350		35		385	10/01/2006
VALDEZ						
05/01 - 09/30	159		88		247	01/01/2009
10/01 - 04/30	115		84		199	01/01/2009
WASILLA						
05/01 - 09/30	151		89		240	01/01/2009
10/01 - 04/30	96		83		179	01/01/2009
WRANGELL						
05/01 - 09/30	140		83		223	01/01/2009
10/01 - 04/30	98		78		176	01/01/2009
YAKUTAT	105		76		181	01/01/2009
[OTHER]	100		71		171	01/01/2009
AMERICAN SAMOA						
AMERICAN SAMOA	122		73		195	12/01/2005
GUAM						
GUAM (INCL ALL MIL INSTAL)	135		80		215	07/01/2008
HAWAII						
CAMP H M SMITH	177		106		283	05/01/2008
EASTPAC NAVAL COMP TELE AREA	177		106		283	05/01/2008
FT. DERUSSEY	177		106		283	05/01/2008
FT. SHAFTER	177		106		283	05/01/2008

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM	M&IE	MAXIMUM	EFFECTIVE
	LODGING		PER DIEM	
	AMOUNT	RATE	RATE	DATE
	(A) +	(B) =	(C)	
HICKAM AFB	177	106	283	05/01/2008
HONOLULU	177	106	283	05/01/2008
ISLE OF HAWAII: HILO	115	104	219	05/01/2009
ISLE OF HAWAII: OTHER	180	108	288	05/01/2009
ISLE OF KAUAI	198	115	313	05/01/2009
ISLE OF MAUI	169	104	273	05/01/2009
ISLE OF OAHU	177	106	283	05/01/2008
KEKAHA PACIFIC MISSILE RANGE FAC	198	115	313	05/01/2009
KILAUEA MILITARY CAMP	115	104	219	05/01/2009
LANAI	229	124	353	05/01/2009
LUALUALEI NAVAL MAGAZINE	177	106	283	05/01/2008
MCB HAWAII	177	106	283	05/01/2008
MOLOKAI	159	98	257	05/01/2009
NAS BARBERS POINT	177	106	283	05/01/2008
PEARL HARBOR	177	106	283	05/01/2008
SCHOFIELD BARRACKS	177	106	283	05/01/2008
WHEELER ARMY AIRFIELD	177	106	283	05/01/2008
[OTHER]	115	104	219	05/01/2009
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY	125	45	170	05/01/2009
NORTHERN MARIANA ISLANDS				
ROTA	129	91	220	05/01/2006
SAIPAN	121	98	219	06/01/2007
TINIAN	138	71	209	07/01/2008
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
AGUADILLA	75	64	139	11/01/2007
BAYAMON	195	82	277	10/01/2007
CAROLINA	195	82	277	10/01/2007
CEIBA				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FAJARDO [INCL ROOSEVELT RDS NAVS				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FT. BUCHANAN [INCL GSA SVC CTR,	195	82	277	10/01/2007
HUMACAO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
LUIS MUNOZ MARIN IAP AGS	195	82	277	10/01/2007
LUQUILLO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
MAYAGUEZ	109	77	186	11/01/2007

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT		M&IE RATE (B)	MAXIMUM PER DIEM RATE		EFFECTIVE DATE
	(A)	+		=	(C)	
PONCE	139		83		222	11/01/2007
SABANA SECA [INCL ALL MILITARY]	195		82		277	10/01/2007
SAN JUAN & NAV RES STA	195		82		277	10/01/2007
[OTHER]	62		57		119	01/01/2000
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	135		92		227	05/01/2006
12/15 - 04/14	187		97		284	05/01/2006
ST. JOHN						
04/15 - 12/14	163		98		261	05/01/2006
12/15 - 04/14	220		104		324	05/01/2006
ST. THOMAS						
04/15 - 12/14	240		105		345	05/01/2006
12/15 - 04/14	299		111		410	05/01/2006
WAKE ISLAND						
WAKE ISLAND	152		12		164	05/01/2009



[FR Doc. E9-8588 Filed 4-16-09; 8:45 am]  
BILLING CODE 5001-06-C

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Notice of Intent To Prepare an Environmental Impact Statement for Training Land Purchase at Fort Polk, LA

**AGENCY:** Department of the Army, DoD.  
**ACTION:** Notice of Intent (NOI).

**SUMMARY:** The U. S. Army intends to prepare an Environmental Impact Statement (EIS) to analyze environmental and socioeconomic impacts connected with the proposed purchase and use of up to 100,000 additional acres of commercial and private lands for training adjacent to Fort Polk. This action will support the training requirements of the Joint Readiness Training Center (JRTC) and the training requirements of Fort Polk's current and future resident units. The EIS will analyze alternatives that are deemed feasible and meet the purpose and need for this Proposed Action.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Walker, Fort Polk Public Affairs Office (PAO), 7073 Radio Road, Fort Polk, LA 71459-5342; or by phone at (337) 531-9125 during normal business hours from 9 a.m. to 5 p.m. c.s.t. Written comments may be mailed to the PAO address or e-mailed to [Susan.T.Walker@conus.army.mil](mailto:Susan.T.Walker@conus.army.mil).

**SUPPLEMENTARY INFORMATION:** Fort Polk, located in west-central Louisiana, is home to the JRTC Operations Group; 1st Maneuver Enhancement Brigade; Brigade, 10th Mountain Division; 1st Battalion, 509th Infantry Regiment; 162 Infantry Training Brigade; 5th Aviation Battalion; and the 115th Combat Support Hospital. Fort Polk's primary missions include supporting these units and the operations of one of the Army's Combat Training Centers (CTC), the Joint Readiness Training Center (JRTC). The JRTC is one of three Army Maneuver CTCs and is the only CTC that is focused on Army light forces. Army CTCs provide units and Soldiers with the most challenging and realistic training possible.

Fort Polk is currently comprised of approximately 198,130 acres of U.S. Army owned land and lands the Army uses under a U.S. Forest Service permit. In order to meet the training requirements of Fort Polk's units and the JRTC, the Army has identified a need to purchase up to 100,000 acres of additional land to enhance realistic

training conditions. The Army proposes to purchase additional maneuver training land to better meet the training needs of the JRTC and Fort Polk's current and future resident units. This additional land will enhance training for Fort Polk units and units deploying to JRTC and will allow Soldiers to train to more realistic standards in preparation for operational deployment.

The Fort Polk EIS will analyze the environmental and socioeconomic impacts of several purchase location alternatives, each of which could include the purchase of up to 100,000 acres of land. Alternative 1 considers the purchase of lands directly adjacent to Fort Polk's existing training areas to the south of Peason Ridge and directly north and east of the main post. Alternative 2 considers the purchase of lands to the south and east of Peason Ridge and parcels that connect Peason Ridge with Fort Polk's main post. As part of Alternative 2, two parcels of land directly adjacent to the eastern side of main post are also being considered for purchase. The Army will also analyze the No Action Alternative, which will evaluate the impacts of taking no action to purchase additional training land around Fort Polk. Resource areas which may be impacted include air quality, traffic, noise, water resources, biological resources, cultural resources, socioeconomic, utilities, land use, solid and hazardous materials/waste, and cumulative environmental effects. Impacts to these resources may occur as a result of converting from existing land uses to military training.

The public is invited to participate in the scoping process. The scoping process begins with the publication of this Notice of Intent in the *Federal Register* and will last for 30 days. The scoping process will include at least three public scoping meetings, which are opportunities for the public to receive information about the proposed action and alternatives and to assist the Army in determining issues related to the proposed purchase to be addressed in the EIS. These meetings will be held in communities surrounding Fort Polk and the specific details of the meetings will be announced in local media sources. The public will also be invited to review and comment on the Draft EIS when it is available for review. Comments from the public will be considered before any decision is made regarding implementing the proposed action at Fort Polk.

Dated: April 8, 2009.

**H.E. Wolfe,**

*Principal Assistant, Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health.*

[FR Doc. E9-8622 Filed 4-16-09; 8:45 am]  
BILLING CODE

## DEPARTMENT OF DEFENSE

### Department of the Navy

[Docket ID: USN-2009-0013]

#### Privacy Act of 1974; System of Records

**AGENCY:** U.S. Marine Corps, DoD.  
**ACTION:** Notice To Delete System of Records.

**SUMMARY:** The U.S. Marine Corps is deleting a system of records in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on May 18, 2009 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (CMC-ARSF), 2 Navy Annex, Room 3134, Washington, DC 20380-1775.

**FOR FURTHER INFORMATION CONTACT:** Ms. Tereza D. Ross at (703) 614-4008.

**SUPPLEMENTARY INFORMATION:** The U.S. Marine Corps systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The U.S. Marine Corps proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: April 14, 2009.

**Morgan E. Frazier,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**DELETION:**

**MMN00004**

**SYSTEM NAME:**

Marine Corps Club Records (February 22, 1993, 58 FR 10630).

**REASON:**

The United States Marine Corps no longer uses this system.

Therefore, this Privacy Act System of Records Notice should be deleted.

[FR Doc. E9-8838 Filed 4-16-09; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Department of the Navy

[Docket ID: USN-2009-0014]

#### Privacy Act of 1974; System of Records

**AGENCY:** U.S. Marine Corps, DoD.

**ACTION:** Notice to Add a System of Records.

**SUMMARY:** The U.S. Marine Corps is proposing to add a new system of records notice to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on May 18, 2009 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (ARSF), 2 Navy Annex, Room 3134, Washington, DC 20380-1775.

**FOR FURTHER INFORMATION CONTACT:** Ms. Tracy Ross at (703) 614-4008.

**SUPPLEMENTARY INFORMATION:** The U.S. Marine Corps system of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, was submitted on April 13, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 14, 2009.

**Morgan E. Frazier,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**M01754-6**

#### SYSTEM NAME:

Exceptional Family Member Program Records.

#### SYSTEM LOCATION:

Commandant of the Marine Corps (Personal and Family Readiness Division), Headquarters, U.S. Marine Corps, 3280 Russell Road, MCB Quantico, VA 22134-5009, and all Marine Corps installations, official mailing addresses are contained in the directory of Department of the Navy Mailing Addresses.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty personnel, Reservists when serving on active duty, Department of Defense civilian employees and their family members, currently or previously enrolled in or serviced by the Marine Corps Exceptional Family Member Program.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Data elements of DD Form 2792, Exceptional Family Member Medical Summary: Authorization of disclosure; identification and demographical information of exceptional family member; family and sponsor name, social security number, branch of service; rank or grade, military designation, current and duty address, official e-mail address; telephone/fax contact number; active duty spouse name, branch of service, rank/rank, and social security number; DEERS enrollment status; certification of accuracy; enrollment status; required addenda selection; screening coordinator contact information; application validating information; medical summary including diagnosis(es), severity, medical/mental health codes, medications, therapies, prognosis, treatment plan, medical history, artificial openings, minimum health care specialty, environmental and architectural considerations, adaptive equipment/special medical equipment, additional comments, if any, by medical provider, provider information, asthma/reactive airway disease medical information and history; mental health information including diagnosis, history of medications and therapies, prognosis, treatment plan, mental health history, other information necessary that may assist in determining necessary treatment, identification of type of providers required to implement treatment plan, and provider information.

All data elements of DD Form 2792-1, Exceptional Family Member Special Education/Early Intervention Summary: Application status, family status, sponsor's name, social security number, rank or grade, branch of service, military designation, home and duty address,

official e-mail address, home and military telephone number; active duty spouse's name, rank/rate, social security number; exceptional-family member name, relationship to sponsor, date of birth, residence address, DEERS enrollment status; sponsor release of information authorization; dependent child name, current grade level, date of birth, age, and sex; early intervention program and school information; eligibility criteria for early intervention or special education; identifying information of disability and severity; provider and school official information.

Supporting documentation of a family member's special medical and/or educational needs; records of children receiving early intervention or related services; enrollment and disenrollment memoranda; medical summaries, individual family support plans (IFSP); individual educational plans (IEP), documentation of authorizations to disclose information; divorce decrees; death certificates; case notes; and other related general program-related documentation and correspondence.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013; Secretary of the Navy; 10 U.S.C. 5041, Headquarters, U.S. Marine Corps; MCO 1754.4, Exceptional Family Member Program and E.O. 9397 (SSN).

#### PURPOSE(S):

To document and manage the continuum of care for the special medical and/or educational needs of family members of Marines enrolled in the Exceptional Family Member Program (EFMP), and to perform program activities including: eligibility determination; identification of category-level; identification of resources to support the special needs family member; verification of EFMP enrollment necessary for certain TRICARE benefits; screen personnel assignments; coordinate program resources for the family, including respite care; conduct assessment and survey activities. Also used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness and conducting research.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

**Note:** This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18-R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18-R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic storage media.

**RETRIEVABILITY:**

By name or Social Security Number (SSN).

**SAFEGUARDS:**

All EFMP computer terminals are restricted to authorized users only. The case management system is a password controlled system, files and element access is based on predefined need-to-know basis. Computer facilities and terminals are located in restricted areas accessible only to authorized persons. Manual records and computer printouts are available only to authorized personnel having a need-to-know and maintained in locked file systems and during non-working hours the facilities are locked. All Data is encrypted while at rest and during transmission. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening, or visitor registers.

**RETENTION AND DISPOSAL:**

The records retention has not been approved by the National Archives and Records Administration, until then treat as permanent.

**SYSTEM MANAGER(S) AND ADDRESS:**

Policy Manager: Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, Marine Corps Community Services, 3280 Russell Road, MCB Quantico, VA 22134-5009.

Secondary Managers: Directors of Marine Corps Community Services (MCCS) offices located at each Marine Corps installation. Official mailing addresses for Marine Corps installations are contained in the directory of Department of the Navy Mailing Addresses.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves or their exceptional family member is contained in this system should address written inquiries to the Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, 3280 Russell Road, Marine Corps Base (MCB) Quantico, VA 22134-5009 or to the MCCS office servicing the installation where the Marine is currently stationed. Official mailing addresses for Marine Corps installations are contained in the directory of Department of the Navy Mailing Addresses.

The written inquiry should include the individual's printed full name, the last four digits of their Social Security Number (SSN), and signature.

**RECORD ACCESS PROCEDURE:**

Individuals seeking to access information about themselves or their exceptional family member is contained in this system should address written inquiries to the Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, 3280 Russell Road, MCB Quantico, VA 22134-5009, or to the MCCS office servicing the installation where the Marine is currently stationed. Official mailing addresses for Marine Corps installations are contained in the directory of Department of the Navy Mailing Addresses.

The written inquiry should include the individual's printed full name, the last four digits of their Social Security Number (SSN), and signature.

**CONTESTING RECORD PROCEDURES:**

The Department of the Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

The Marine, spouse, and/or the exceptional family member and general correspondence concerning the same; EFMP personnel; the Marine Corps Total Force System database and/or the Defense Enrollment Eligibility Reporting System (DEERS).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. E9-8843 Filed 4-16-09; 8:45 am]

BILLING CODE 5001-06-P

**DEPARTMENT OF DEFENSE**

**Department of the Air Force**

[Docket ID: USAF-2009-0027]

**Privacy Act of 1974; System of Records**

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice To Delete a System of Records.

**SUMMARY:** The Department of Air Force proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on May 18, 2009 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330-1800.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ben Swilley at (703) 696-6648.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The Department of the Air Force proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 14, 2009.

**Morgan E. Frazier,**  
Alternate OSD Federal Register Liaison  
Officer, Department of Defense.

**DELETION OF SYSTEM NOTICE:**

**F036 AFPC A**

**SYSTEM NAME:**

Deceased Service Member's Dependent File (June 11, 1997, 62 FR 31793).

**REASON:**

This is a duplicate system that is now merged with F036 AF PC R, Casualty Files (June 11, 1997, 62 FR 31793).

There should be only one system for Casualty Files records.

[FR Doc. E9-8842 Filed 4-16-09; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Department of the Army

[Docket ID: USA-2009-0010]

#### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice to add a system of records.

**SUMMARY:** The Department of the Army is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** The proposed action will be effective on May 18, 2009 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325-3905.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leroy Jones at (703) 428-6185.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(f) of the Privacy Act of 1974, as amended, was submitted on April 13, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 14, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

**A0025-2a SAIS DoD**

#### SYSTEM NAME:

Defense Biometric Identification Records System.

#### SYSTEM LOCATION:

Department of Defense, Biometrics Task Force, 347 West Main Street, Clarksburg, WV 26306-2947 and at any Department of Defense activity that receives, compares, retains, accesses, or uses biometric technology to recognize the identity or to verify the claimed identity of an individual.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered include members of the U.S. Armed Forces, DoD civilian and contractor personnel, military reserve personnel, Army and Air National Guard personnel, and other individuals (who are U.S. citizens or aliens lawfully admitted for permanent residence) requiring or requesting access to DoD or DoD controlled information systems and/or DoD or DoD contractor operated, controlled, or secured facilities. Also included are U.S. persons who have been declared missing, prisoners of war (POW), non-U.S. citizens, civilian persons who are being detained or held hostage, or personnel recovered from hostile control. Individuals within the purview of both the personnel recovery and personnel accounting missions respectively are covered. Personnel recovery supports U.S. military, DoD civilian, and DoD contractor personnel while hostilities are ongoing. Personnel accounting takes over once hostilities cease.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), organization, telephone number, and office symbol; security clearance; level of access; subject interest code; user identification code; data files retained by users; assigned password; magnetic tape reel identification; abstracts of computer programs and names and phone numbers of contributors; similar relevant information; biometrics templates, biometric images, supporting documents, and biographic information including name, date of birth, place of birth, height, weight, eye color, hair color, race and gender and similar relevant information; and reports of casualty, biographic data and debriefing reports concerning U.S. personnel who are missing, captured, or detained by a hostile entity.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; DoD Directive 8521.01E, Department of Defense Biometrics; DoD

Directive 8500.1, Information Assurance (IA); DoD Instruction 8500.2, Information Assurance Implementation; Army Regulation 25-2, Information Assurance; DoD Directive 2310.7, Personnel Accounting-Loses Due to Hostile Acts; DoD Directive 5110.10, Defense Prisoner of War/Missing in Action Office; DoD Instruction 2310.5, Accounting for Missing Persons; and E.O.9397 (SSN).

#### PURPOSE(S):

To control logical and physical access to DoD and DoD controlled information systems and DoD or DoD contractor operated, controlled, or secured facilities and to support the DoD physical and logical security, force protection, identity management, and information assurance programs, by identifying an individual or verifying/authenticating the identity of an individual through the use of biometrics (i.e., measurable physiological or behavioral characteristics) for purposes of protecting U.S./Coalition/allied government and/or U.S./Coalition/allied national security areas of responsibility and information.

Information assurance purposes include the administration of passwords and identification numbers for operators/users of data in automated media; identifying data processing and communication customers authorized access to or disclosure from data residing in information processing and/or communication activities; and determining the propriety of individual access into the physical data residing in automated media.

To maintain records for the expedient field identification and recovery of persons, or their physical remains, who have been captured, detained, evading, isolated or missing, and for the continuing operational capability to determine the areas of movement and detention of these persons who were captured, detained, evaded, isolated or missing.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, tribal, local, or foreign agencies, for the purposes of law enforcement, counterterrorism, immigration management and control, and homeland security as authorized by U.S. Law or Executive Order, or for the



purpose of protecting the territory, people, and interests of the United States of America against breaches of security related to DoD controlled information or facilities, and against terrorist activities.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders and electronic storage media.

**RETRIEVABILITY:**

Name, Social Security Number (SSN), biometric template, fingerprints, face, iris, DNA, and other biometric data.

**SAFEGUARDS:**

Computerized records maintained in a controlled area are accessible only to authorized personnel. Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Physical and electronic access is restricted to designated individuals having a need therefore in the performance of official duties and who are properly screened and cleared for need-to-know.

**RETENTION AND DISPOSAL:**

Data is deleted and destroyed when superseded or when no longer needed for operational purposes, whichever is later, by shredding, pulping, degaussing or erasing.

Records pertaining to captured, detained, evading, isolated or missing U.S. military, Department of Defense (DOD) civilians, DOD contractor personnel, and other U.S. persons, will be maintained in the files until no longer needed, or for 10 years either after recovery or after the subject is declared Killed/Missing in Action or dead. Records are destroyed by shredding, pulping, degaussing or erasing.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Biometrics Task Force, 1901 S. Bell Street, Suite 900, Arlington, VA 22202-4512.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Biometric Task Force, 1901 S. Bell Street, Suite 900, Arlington, VA 22202-4512.

For verification purposes, individual should provide full name, sufficient

details to permit locating pertinent records, and signature.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to Biometric Task Force, 1901 S. Bell Street, Suite 900, Arlington, VA 22202-4512.

For verification purposes, individual should provide full name, sufficient details to permit locating pertinent records, and signature.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From the individual, DoD security offices, system managers, computer facility managers, automated interfaces for user codes on file at Department of Defense sites.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. E9-8840 Filed 4-16-09; 8:45 am]

BILLING CODE 5001-06-P

**DEPARTMENT OF ENERGY**

**Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation**

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the *Federal Register*.

**DATES:** Wednesday, May 13, 2009, 6 p.m.

**ADDRESSES:** DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

**FOR FURTHER INFORMATION CONTACT:** Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM-90, Oak Ridge, TN 37831. Phone (865) 576-4025; Fax (865) 576-2347 or e-mail: [halseypj@oro.doe.gov](mailto:halseypj@oro.doe.gov) or check the Web site at <http://www.oakridge.doe.gov/em/ssab>.

**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:** The main meeting presentation will be on the Consortium for Risk Evaluation with Stakeholder Participation.

**Public Participation:** The EM SSAB, Oak Ridge, 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 Pat Halsey 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 the agenda item should contact Pat Halsey 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 Pat Halsey at the address and phone number listed above. Minutes will also be available at the following Web site: <http://www.oakridge.doe.gov/em/ssab/minutes.htm>.

Issued at Washington, DC on April 13, 2009.

**Rachel Samuel,**

*Deputy Committee Management Officer.*

[FR Doc. E9-8831 Filed 4-16-09; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY**

**Environmental Management Site-Specific Advisory Board, Northern New Mexico**

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of

this meeting be announced in the **Federal Register**.

**DATES:** Wednesday, May 13, 2009; 9 a.m.–5 p.m. Thursday, May 14, 2009; 9 a.m.–5 p.m.

**ADDRESSES:** Courtyard by Marriott, 3347 Cerrillos Road, Santa Fe, New Mexico.

**FOR FURTHER INFORMATION CONTACT:**

Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995-0393; Fax (505) 989-1752 or E-mail: [msantistevan@doeal.gov](mailto:msantistevan@doeal.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**

*Retreat—Wednesday, May 13, 2009*

- 9 a.m. Welcome and Introductions, J.D. Campbell.
- 9:05 a.m. Round Robin—Expectations for Retreat, Board Members.
- 9:15 a.m. Board Member Discussion with Designated Federal Officer, Cate Brennan.
- 10 a.m. Environmental Justice Presentation, Brandt Petrusek.
- 11 a.m. Break.
- 11:15 a.m. Introduction for New Members, DOE Staff.
- 12 p.m. Lunch Break.
- 1 p.m. DOE Los Alamos Site Office (LASO) Top Three Issues, DOE Staff.
- 2 p.m. New Mexico Environment Department Pending Issues, James Bearzi.
- 2:30 p.m. Environmental Protection Agency Pending Issues, Rich Mayer.
- 3 p.m. Break.
- 3:15 p.m. Presentation for Environmental Justice Conference, Mike Loya.
- 4 p.m. Wrap up Discussion.
- 5 p.m. Adjourn.

*Meeting—Thursday, May 14, 2009*

- 9 a.m. Call to Order by Deputy Designated Federal Officer, Jeff Casalina.
- Establishment of a Quorum, Lorelei Novak.
- Welcome and Introductions, J.D. Campbell.
- Approval of Agenda, J.D. Campbell.
- Approval of Minutes of March 25, 2009, Board Meeting, J.D. Campbell.
- 9:15 a.m. Old Business.
  - Written Reports
  - Open Discussion from Board Members
- 9:30 a.m. New Business.
  - Open Discussion from Board

**Members**

- 9:45 a.m. Committee Reports.
  - Waste Management Committee, Gerry Maestas
  - Environmental Monitoring and Surveillance Committee, Mike Loya
- 10:15 a.m. Ad Hoc Committee Reports.
  - Fiscal Year 2011 DOE/EM Budget, Kathleen Hall
  - Public Participation, Peter Baston
- 10:30 a.m. Break.
- 10:45 a.m. Presentation by Eight Northern Indian Pueblos, Boyd Nystedt.
- 12 p.m. Lunch.
- 1 p.m. LASO Presentation on DOE/Los Alamos National Laboratory Implementation of NNMCAB Recommendations, Jeff Casalina.
- 1:30 p.m. Public Comment Period.
- 1:45 p.m. Environmental Justice Presentation, Mike Loya.
- 2:00 p.m. Consideration and Action on Draft Recommendations.
- 3:30 p.m. Presentation on Buckman Direct Diversion Project, Rick Carpenter.
- 4:30 p.m. Open Discussion from Board Members.
  - Press Releases, Editorials, etc.
  - Future Presentation Topics
  - Other items
- 5 p.m. Adjourn, Jeff Casalina.

**Public Participation:** The EM SSAB, Northern New Mexico, 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 Menice Santistevan 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 Menice Santistevan 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 Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: <http://www.nnmcab.org/minutes/board-minutes.htm>.

Issued at Washington, DC on April 13, 2009.

**Rachel Samuel,**

*Deputy Committee Management Officer.*

[FR Doc. E9-8844 Filed 4-16-09; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Project No. 13344-000]

**Hydro Energy Technologies, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications**

April 9, 2009.

On December 9, 2008, Hydro Energy Technologies, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Michael J. Kirwan Dam Hydroelectric Project, to be located on the West Branch of the Mahoning River, in Portage County, Ohio.

The proposed Michael J. Kirwan Dam Hydroelectric Project would be located at: (1) the existing U.S. Army Corps of Engineers 9,900-foot-long, 83-foot-high Michael J. Kirwan Dam; and (2) an existing 3,240-acre reservoir with a water surface elevation of 993 feet mean sea level.

The proposed project would consist of: (1) A new powerhouse containing one or more turbine/generators with a total installed capacity of 1.5 megawatts; (2) a new 50-foot-long, 60-inch-diameter penstock; (3) a new 200-foot-long transmission line; and (4) appurtenant facilities. The Michael J. Kirwan Project would have an estimated average annual generation of 3,676 megawatts-hours, which would be sold to a local utility.

**Applicant Contact:** Mr. Anthony J. Marra, Managing Partner, Hydro Energy Technologies, LLC, 31300 Solon Rd. Suite 12, Solon, OH 44139, (440) 498-1000.

**FERC Contact:** John Ramer, (202) 502-8969.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight



copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13344) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,  
Secretary.

[FR Doc. E9-8805 Filed 4-16-09; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2306-143]

#### Great Bay Hydro Corporation; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 10, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

- a. *Application Type:* Non-Capacity Amendment of License.
- b. *Project No.:* 2306-143.
- c. *Date Filed:* February 19, 2009.
- d. *Applicant:* Great Bay Hydro Corporation.
- e. *Name of Project:* Clyde River Hydroelectric Project.
- f. *Location:* On the Clyde River near Newport, Orleans County, Vermont.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.
- h. *Applicant Contact:* William C. Rodgers, Director of Marketing, Great Bay Hydro Corporation, 1 New Hampshire Avenue, Suite 207, Portsmouth, NH 03801, telephone: (603) 294-4850.
- i. *FERC Contact:* Mrs. Anumzziatta Purchiaroni, Telephone (202) 502-6191, and e-mail address: [anumzziatta.purchiaroni@ferc.gov](mailto:anumzziatta.purchiaroni@ferc.gov).
- j. *Deadline for filing comments, motions to intervene, and protest:* May 11, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* The licensee is proposing a non-capacity amendment to replace the existing penstock and powerhouse with new facilities, and new generating units. Instead of repairing the penstock and existing powerhouse as authorized under the license, the licensee proposes to rebuild the powerhouse at the West Charleston Dam, thus eliminating the need for about 1600 feet of penstock. The proposed changes will reduce the authorized installed capacity of the Clyde River Project from 4.8 MW to 4.7 MW. The licensee's proposal has been reviewed and commented by the following agencies: Vermont Agency of Natural Resources (VANR), the U.S. Fish and Wildlife Service, and the Vermont Historic Preservation Officer. In addition, the licensee requested an amendment of its Water Quality Certification from the VANR.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. Information about this filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link.

Kimberly D. Bose,  
Secretary.

[FR Doc. E9-8810 Filed 4-16-09; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12628-002]

#### The City of Nashua, IA; Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 10, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

- a. *Type of Application:* Original Minor License.
- b. *Project No.:* 12628-002.
- c. *Date Filed:* January 13, 2009.
- d. *Applicant:* The City of Nashua, Iowa.

e. *Name of Project*: Cedar Lake Dam Hydroelectric Project.

f. *Location*: The project would be located at the existing Cedar Lake Dam, on the Cedar River, in Chickasaw County, Iowa. The project would not occupy any Federal land.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Ms. Rebecca Neal, The City of Nashua, 402 Main Street, Nashua, IA 50658; (641) 435-4156.

i. *FERC Contact*: Michael Watts, Michael.Watts@ferc.gov, (202) 502-6123.

j. *Deadline for Filing Motions to Intervene and Protests*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link. For a simpler method of submitting text only comments, click on "Quick Comment."

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. *Project Description*: The existing dam and integral powerhouse are owned by the City of Nashua and were constructed in 1917 and used for power generation until 1965. The City is proposing to rehabilitate the project and install new turbine generators and associated equipment. The proposed project would consist of: (1) An existing 15.5-foot-high concrete dam with a 258-foot-long spillway equipped with four 6-foot-high tainter gates, a 6-foot-high control gate, and three 4-foot-high flashboards; (2) an existing 405-acre reservoir with a normal full pond elevation of 960.1 feet above mean sea level; (3) an existing 50-foot-wide concrete intake structure connected to; (4) an existing powerhouse to contain four new turbine generating units with

a total installed capacity of 800 kilowatts; (5) a new 75-foot-long, 13.8-kilovolt overhead transmission line; and (6) appurtenant facilities. The proposed project would generate an estimated average annual generation of 3,285 megawatt hours. The project would operate in a run-of-river mode.

m. A copy of the application is available for review at the Commission's Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of

the applicant specified in the particular application.

Kimberly D. Bose,  
Secretary.

[FR Doc. E9-8809 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP09-108-000]

#### Tennessee Gas Pipeline Company; Notice of Application

April 9, 2009.

Take notice that on April 3, 2009, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP09-108-000, an application pursuant to section 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, requesting authorization to abandon a segment of its Line 523M-100 located in Federal waters offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (866) 208-3676 or TTY, (202) 502-8659.

Any questions regarding this application should be directed to Susan T. Halbach, Senior Counsel, Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, Texas 77002, or by calling (713) 420-5751 (telephone), [susan.halbach@elpaso.com](mailto:susan.halbach@elpaso.com) or to Kathy Cash, Principal Analyst, Rates and Regulatory Affairs, Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, Texas 77002, or by calling (713) 420-3290 (telephone) or (713) 420-1605 (fax), [kathy.cash@elpaso.com](mailto:kathy.cash@elpaso.com).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the

EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of the Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties.

However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

*Comment Date:* April 30, 2009.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E9-8807 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13352-000]

#### Olsen Electric Development Co., Inc.; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

April 9, 2009.

On January 20, 2009, Olsen Electric Development Co., Inc. filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Malden Mills Hydroelectric Project, to be located on the Spicket River, in Essex County, Massachusetts.

The proposed Malden Mills Hydroelectric Project consists of: (1) An existing 85-foot-long, 12-foot-high Malden Mills Dam, with new foot-high wooden flashboards; (2) an existing 10-acre head pond having a maximum storage capacity of about 36 acre-feet; (3) a refurbished gatehouse containing two turbine generating units with a total installed capacity of 0.2 megawatts; (4) a direct connection to an existing substation; and (5) appurtenant facilities. The Malden Mills Project would have an average annual generation of 850 megawatt-hours, which would be sold to Polartec, LLC.

*Applicant Contact:* Mr. Jerome A. Olson, Olsen Electric Development Co., Inc., 30r Hampshire Street, Methuen, MA 01844, phone (978) 975-0400.  
*FERC Contact:* John Ramer. (202) 502-8969.

Deadline for filing comments, motions to intervene, competing applications

(without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13352) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E9-8806 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13343-000]

#### Hydro Energy Technologies, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

April 9, 2009.

On December 9, 2008, Hydro Energy Technologies, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Mosquito Creek Hydroelectric Project, to be located on Mosquito Creek, in Trumbull County, Ohio.

The proposed Mosquito Creek Hydroelectric Project would be located at: (1) the existing U.S. Army Corps of Engineers 5,650-foot-long, 47-foot-high Mosquito Creek Dam; and (2) an existing 8,900-acre reservoir with water surface elevation of 904 feet mean sea level.

The proposed project would consist of: (1) A new powerhouse containing one or more turbine/generators with a total installed capacity of 0.5 megawatts; (2) a new 50-foot-long, 60-inch-diameter penstock; (3) a new 400-foot-long

transmission line; and (4) appurtenant facilities. The Mosquito Creek Project would have an estimated average annual generation of 1,682 megawatts-hours, which would be sold to a local utility.

**Applicant Contact:** Mr. Anthony J. Marra, Managing Partner, Hydro Energy Technologies, LLC, 31300 Solon Rd., Suite 12, Solon, OH 44139, (440) 498-1000.

**FERC Contact:** John Ramer, (202) 502-8969.

**Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:** 60 days from the issuance of this notice.

Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13343) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E9-8804 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13257-001]

#### Modern Hydro; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approval of Use of the Traditional Licensing Process

April 9, 2009.

a. **Type of Filing:** Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. **Project No.:** 13257-001.

c. **Dated Filed:** March 2, 2009.

d. **Submitted By:** Modern Hydro.

e. **Name of Project:** Lake Delhi Dam Hydroelectric Project.

f. **Location:** The project would be located at the Lake Delhi Recreation Association's Lake Delhi Dam on the Maquoketa River in Delaware County, Iowa.

g. **Filed Pursuant to:** 18 CFR 5.3 of the Commission's regulations.

h. **Applicant Contact:** Dwight Shanak, Modern Hydro, N3322 Sunrise Lane, Waupaca, WI 54981, (715) 258-5720.

i. **FERC Contact:** Dr. Nicholas Palso, (202) 502-68854 or [nicholas.palso@ferc.gov](mailto:nicholas.palso@ferc.gov).

j. Modern Hydro filed its request to use the Traditional Licensing Process on March 2, 2009. Modern Hydro filed public notice of its request on March 12, 2009. In a letter dated April 8, 2009, the Director of the Office of Energy Projects approved Modern Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are approving Modern Hydro's request to be designated as the non-federal representative for section 7 of the Endangered Species Act and its request to initiate consultation under section 106 of the National Historic Preservation Act; and recommending that it begin informal consultation with: (a) The U.S. Fish and Wildlife Service; and (b) the Iowa State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Modern Hydro filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCONlineSupport@ferc.gov](mailto:FERCONlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at <http://ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E9-8803 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings # 1

April 9, 2009.

Take notice that the Commission received the following electric corporate filings:

**Docket Numbers:** EC09-66-000.

**Applicants:** Lehman White Creek Wind Holdings LLC, White Creek Wind I Holdings, LLC, White Creek I, LLC, New York Life Insurance Company.

**Description:** Joint Application for Authorization for Disposition of Jurisdictional Facilities and Acquisition of Securities and Request for Confidential Treatment, Certain Waivers, and Expedited Notice and Action by May 15, 2009.

**Filed Date:** 04/08/2009.

**Accession Number:** 20090408-5135.

**Comment Date:** 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Take notice that the Commission received the following electric rate filings:

**Docket Numbers:** ER00-2173-009; ER00-3219-007.

**Applicants:** Northern Indiana Public Service Company; Energy USA-TPC Corp.

**Description:** Supplemental Information/Request of Northern Indiana Public Service Company.

**Filed Date:** 03/24/2009.

**Accession Number:** 20090324-5097.

**Comment Date:** 5 p.m. Eastern Time on Tuesday, April 14, 2009.

**Docket Numbers:** ER09-963-000.  
**Applicants:** Midwest Independent Transmission System Operator, Inc.

**Description:** Midwest Independent Transmission System Operator, Inc. submits Original Service Agreement 7224 to FERC Electric Tariff, Third Revised Volume 1; request to terminate the Market Participant Agreement and Service Agreement.

**Filed Date:** 04/07/2009.

**Accession Number:** 20090408-0246.

**Comment Date:** 5 p.m. Eastern Time on Tuesday, April 28, 2009.

**Docket Numbers:** ER09-964-000.  
**Applicants:** Midwest Independent Transmission System Operator, Inc.

**Description:** Midwest Independent Transmission System Operator, Inc. submits request to terminate the market participant agreement between the Midwest ISO and the AI Funds, LLC and notice regarding continuing and anticipated default.

**Filed Date:** 04/07/2009.

**Accession Number:** 20090408-0248.



*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 28, 2009.

*Docket Numbers:* ER09-965-000.

*Applicants:* Midwest Independent Transmission System Operator, Inc.  
*Description:* Midwest Independent Transmission System Operator, Inc. submits request to terminate the market participant agreement between the Midwest ISO and Palms Asset Management LLC and notice regarding continuing and anticipated default.

*Filed Date:* 04/07/2009.

*Accession Number:* 20090408-0139.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 28, 2009.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES07-34-001; ES08-29-002.

*Applicants:* System Energy Resources, Inc.; Entergy Services, Inc.

*Description:* Supplemental Information of System Energy Resources, Inc.

*Filed Date:* 04/08/2009.

*Accession Number:* 20090408-5121.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 20, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

*Docket Numbers:* OA07-53-005.

*Applicants:* Progress Energy, Inc.

*Description:* Annual Penalty Revenues Refund Report of Carolina Power & Light Company and Florida Power Corporation.

*Filed Date:* 04/09/2009.

*Accession Number:* 20090409-5031.

*Comment Date:* 5 p.m. Eastern Time on Thursday, April 30, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and

interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E9-8770 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

April 8, 2009.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER98-2491-015; ER99-2251-009; ER99-2252-010; ER97-705-020.

*Applicants:* Consolidated Edison Energy, Inc; Consolidated Edison Company of New York; Orange and Rockland Utilities, Inc.; Consolidated Edison Solutions Inc.

*Description:* Notification of Non-Material Change in Status of Consolidated Edison Energy, Inc.

*Filed Date:* 04/08/2009.

*Accession Number:* 20090408-5015.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 29, 2009.

*Docket Numbers:* ER99-3168-009; ER04-994-005; ER04-659-010; ER04-657-010; ER04-660-010.

*Applicants:* Mystic Development, LLC, Fore River Development, LLC,

Astoria Generating Company, LP, Boston Generating, LLC, Mystic I, LLC.  
*Description:* Notification of Change in Status of Astoria Generating Company, L.P., et al.

*Filed Date:* 04/08/2009.

*Accession Number:* 20090408-5044.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 29, 2009.

*Docket Numbers:* ER00-3039-002.

*Applicants:* Exeter Energy Limited Partnership.

*Description:* Exeter Energy Limited Partnership submits revised sheets to its FERC Electric Tariff Original Sheet No 1.

*Filed Date:* 04/02/2009.

*Accession Number:* 20090407-0018.

*Comment Date:* 5 p.m. Eastern Time on Thursday, April 23, 2009.

*Docket Numbers:* ER05-305-004.

*Applicants:* Pinelawn Power LLC.

*Description:* Pinelawn Power, LLC submits market based rate wholesale power sales tariff.

*Filed Date:* 04/03/2009.

*Accession Number:* 20090407-0020.

*Comment Date:* 5 p.m. Eastern Time on Friday, April 24, 2009.

*Docket Numbers:* ER05-1065-011; OA07-32-008.

*Applicants:* Entergy Services, Inc.

*Description:* Entergy Services, Inc submits revised Attachments C, D, and E to its Open Access Transmission Tariff.

*Filed Date:* 04/03/2009.

*Accession Number:* 20090407-0549.

*Comment Date:* 5 p.m. Eastern Time on Friday, April 24, 2009.

*Docket Numbers:* ER05-1489-002.

*Applicants:* Craven County Wood Energy Limited Partnership.

*Description:* Craven County Wood Energy Limited Partnership submits revised sheets to its Market-Based tariff, entitled FERC Electric Tariff Original Sheet 1 etc.

*Filed Date:* 04/02/2009.

*Accession Number:* 20090407-0017.

*Comment Date:* 5 p.m. Eastern Time on Thursday, April 23, 2009.

*Docket Numbers:* ER09-960-000.

*Applicants:* Northeast Utilities Service Company.

*Description:* Northeast Utilities Service Company submits Third Revised Sheet 3205 et al. to FERC Electric Tariff 3 Section II—Open Access Transmission Tariff of the ISO New England Inc.

*Filed Date:* 04/07/2009.

*Accession Number:* 20090408-0153.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 28, 2009.

*Docket Numbers:* ER09-962-000.

*Applicants:* Xcel Energy Services Inc.

*Description:* Northern States Power Company submits the proposed termination of Supplement 1 to Firm Power Service Resale Agreement, FERC Rte Schedule 431 between NSP-M and the city of Shakopee.

*Filed Date:* 04/07/2009.

*Accession Number:* 20090408-0133.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 28, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or

call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*

[FR Doc. E9-8771 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-458-000]

#### UGI LNG, Inc.; Notice of Availability of the Environmental Assessment for the Proposed Temple LNG Plant Expansion Project

April 10, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the expansion of the Temple LNG Plant proposed by UGI LNG, Inc. (UGI LNG) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the expansion of UGI LNG's existing liquefied natural gas (LNG) peak-shaving facility located in Ontelaunee Township, Berks County, Pennsylvania. Project components include:

- A full-containment LNG storage tank designed to store a gross volume of 50,000 cubic meters (m<sup>3</sup>) (314,500 barrels) of LNG at a maximum allowable operating pressure (MAOP) of 2.5 pounds per square inch (psig);
- A send-out/vaporization system to pressurize and vaporize the LNG;
- A vapor-handling system to recover and compress vaporized LNG;
- A tertiary containment system consisting of a system of swales, earthen berms, bio-retention basin, grading, and concrete barricades designed to contain the entire contents of the LNG storage tank; and
- Other LNG storage facility components, including a power distribution system expansion, a new emergency generator, a control building addition, a security fence, and access roads.

UGI LNG states that the project would provide new storage and peaking distribution of natural gas. It would send out natural gas through existing

Utilities, Inc. and Texas Eastern Transmission Company pipeline systems.

All proposed facilities would be constructed and operated in Berks County, Pennsylvania. UGI LNG proposes beginning construction in 2009 and to have the project in service by November 2011.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502-8371.

Copies of the EA have been mailed to Federal, State, and local agencies; public interest groups; interested individuals and affected landowners; Native American tribes; newspapers and libraries; and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below.

You can make a difference by providing us with your specific comments or concerns about the Temple LNG Plant Expansion Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before May 11, 2009.

For your convenience, there are three methods in which you can use to submit your comments to the Commission. In all instances please reference the project docket number CP08-458 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202-502-8258 or [efiling@ferc.gov](mailto:efiling@ferc.gov).

(1) You may file your comments electronically by using the *Quick Comment* feature, which is located on the Commission's Internet Web site at <http://www.ferc.gov> under the link to *Documents and Filings*. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Internet Web site at <http://www.ferc.gov> under the link to *Documents and Filings*. eFiling involves



preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on "Sign up" or "eRegister." You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing;" or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 3, PJ11.3.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).<sup>1</sup> Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1-866-208-FERC or on the FERC Internet Web site (<http://www.ferc.gov>) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching

proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to <http://www.ferc.gov/esubscribenow.htm>.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E9-8811 Filed 4-16-09; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PF09-6-000]

#### Questar Overthrust Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Loop Expansion Project and Request for Comments on Environmental Issues

April 10, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Loop Expansion Project (project) planned by Questar Overthrust Pipeline Company (Overthrust). The project consists of about 43 miles of 36-inch-diameter pipeline within Uinta and Sweetwater Counties, Wyoming. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process used to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on May 11, 2009.

This Notice of Intent (NOI) is being sent to affected landowners; Federal, State, and local government representatives and agencies; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. We<sup>1</sup> encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the

planned facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC, "An Interstate Natural Gas Facility on My Land? What Do I Need to Know?" is available for viewing on the FERC Web site (<http://www.ferc.gov>). This fact sheet addresses a number of typically-asked questions, including those focusing on the use of eminent domain and how to participate in the FERC's proceedings.

#### Summary of the Planned Project

The planned Loop Expansion Project would consist of the following facilities:

- About 43 miles of 36-inch-diameter pipeline in Uinta and Sweetwater Counties, Wyoming;
- A bypass valve assembly tie-in at the Rock Springs Compressor Station in Rock Springs, Wyoming;
- A new crossover valve assembly at milepost (MP) 43.3; and
- Two 36-inch-diameter block valves at MPs 18.6 and 38.5.

The Loop Expansion Project would allow Overthrust to provide up to 800,000 dekatherms per day of natural gas westbound to Kern River Gas Transmission Company and to El Paso Corporation's proposed Ruby Pipeline.

A general location map of Overthrust's planned facilities is provided in appendix 1.<sup>2</sup>

#### Land Requirements for Construction

Construction of Overthrust's planned facilities would disturb about 833 acres of land including aboveground facilities and the pipeline. Overthrust would utilize existing public roads to access the work areas. Following construction, about 262.3 acres would be maintained for permanent operation of the project's facilities while the remaining acreage would be restored and allowed to revert to former uses. About 90 percent (39.1 miles) of the planned pipeline would be collocated with existing pipeline, utility, or road ROWs.

<sup>2</sup> The appendices referenced in this notice are not being printed in the Federal Register. Copies of all appendices, other than appendix 1 (maps), are available on the Commission's Web site at the "eLibrary" link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

<sup>1</sup> Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

<sup>1</sup> "We," "us," and "our" refer to the environmental staff of the FERC's Office of Energy Projects.

### The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this NOI, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this planned action and encourage them to comment on their areas of concern.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's Pre-filing Process. The purpose of the Pre-filing Process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our Pre-filing Process review, we have begun to contact some Federal and State agencies to discuss their involvement in the scoping process and the preparation of the EA.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during scoping, the EA may be published and mailed to Federal, State, and local agencies; public interest groups; interested individuals; affected landowners; and local newspapers and libraries. A comment period will be allotted for review if the EA is

published. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

With this NOI, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this NOI. The Department of the Interior's Bureau of Land Management (BLM) has already requested cooperating-agency status and will be assisting us in the scoping, analysis, and preparation of the EA. The EA will be used by both the FERC and the BLM to satisfy our NEPA requirements and support our respective decisions.

### Public Participation

You can make a difference by providing us with your specific comments or concerns about the Loop Expansion Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before May 11, 2009.

For your convenience, there are three methods in which you can use to submit your comments to the Commission. In all instances please reference the project docket number PF09-6-000 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202-502-8258 or [efiling@ferc.gov](mailto:efiling@ferc.gov).

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's Internet Web site at <http://www.ferc.gov> under the link to Documents and Filings. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Internet Web site at

<http://www.ferc.gov> under the link to Documents and Filings. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file to your submission. New eFiling users must first create an account by clicking on "Sign up" or "eRegister." You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing;" or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 1, PJ11.1.

### Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

### Becoming an Intervenor

Once Overthrust formally files its application with the Commission, you may want to become an "intervenor," which is an official party to the proceeding. Intervenor play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "eFiling" link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

### Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1-866-208-FERC or on the FERC Internet Web site (<http://www.ferc.gov>)

using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to <http://www.ferc.gov/esubscribenow.htm>.

Public meetings or site visits will be posted on the Commission's calendar located at <http://www.ferc.gov/EventCalendar/EventsList.aspx> along with other related information.

Finally, Overthrust has established an Internet Web site for its project at <http://www.overthrustexpansion.com>. The site includes a project overview, contact information, regulatory overview, and construction procedures. Overthrust will continue to update its Web site with information about the project. You can also request additional information by calling Overthrust at 1-800-366-8532.

Kimberly D. Bose,  
Secretary.

[FR Doc. E9-8808 Filed 4-16-09; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP09-428-000]

#### ANR Pipeline Company; Notice of Technical Conference

April 9, 2009.

Take notice that the Commission Staff will convene a technical conference in the above-referenced proceeding on Tuesday, May 19, 2009, at 9 a.m. (EST), in Room 3M-2B at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The technical conference will afford the Commission staff and the parties to the proceeding an opportunity to

discuss the issues raised by ANR Pipeline Company's (ANR) annual fuel and electric power cost re-determination filing, including but not limited to the proposed increase in the gas fuel charge and electric power cost charge for the Cold Springs 1 Storage Field.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free (866) 208-3372 (voice) or (202) 502-8659 (TTY), or send a fax to (202) 208-2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact David Faerberg at (202) 502-8275 or e-mail [David.Faerberg@ferc.gov](mailto:David.Faerberg@ferc.gov).

Kimberly D. Bose,  
Secretary.

[FR Doc. E9-8802 Filed 4-16-09; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM07-10-000]

#### Transparency Provisions of Section 23 of the Natural Gas Act; Notice of Extension of Time

April 9, 2009.

On April 8, 2009, the American Forest & Paper Association, the Process Gas Consumers Group, the Interstate Natural Gas Association of America, the Electric Power Supply Association, the Independent Petroleum Association of America, and the American Gas Association (the Associations) filed a joint motion for an extension of time for the initial filing of Form No. 552, as required by Commission Order Nos. 704, 704-A, and 704-B (Order No. 704).<sup>1</sup> The motion states that because many of the Associations' members are unfamiliar with reporting transactional data under the Commission's rules and because of questions about the requirements of Form No. 552, as well as informational system and data collection issues which must be addressed by the members, additional time is needed to submit the compliance filing.

Upon consideration, notice is hereby given that an extension of time for submitting the initial filing of Form 572

<sup>1</sup> *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, 121 FERC ¶ 61,295 (2007), *order on reh'g*, Order No. 704-A, 124 FERC ¶ 61,269 (2008), *order on reh'g*, Order No. 704-B, 125 ¶ 61,302 (2008).

in compliance with Commission Order No. 704, is granted to and including July 1, 2009.

Nathaniel J. Davis, Sr.,  
Acting Secretary.

[FR Doc. E9-8772 Filed 4-16-09; 8:45 am]  
BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2008-0432; FRL-8893-5]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Reinforced Plastic Composites Production, EPA ICR Number 1976.04, OMB Control Number 2060-0509

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR that is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before May 18, 2009.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-HQ-OECA-2008-0432, to (1) EPA online using <http://www.regulations.gov> (our preferred method), or by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** John Schaefer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243-05), Measurement Policy Group, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541-0296; fax number: (919) 541-3207; e-mail address: [schaefer.john@epa.gov](mailto:schaefer.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 FR 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2008-0432, which is available for public viewing online at <http://www.regulations.gov>, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744 and the telephone number for the Enforcement and Compliance Docket is (202) 566-1927.

Use EPA's electronic docket and comment system at <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov>, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

**Title:** NESHAP for Reinforced Plastic Composites Production (Renewal).

**ICR Numbers:** EPA ICR Number 1976.04, OMB Control Number 2060-0509.

**ICR Status:** This ICR is scheduled to expire on June 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the *Federal Register* when approved, are listed in 40 CFR part 9,

and displayed either by publication in the *Federal Register* or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites (RPC) Production Operations and Processes were proposed on August 2, 2001 (66 FR 40323), and promulgated on April 21, 2003 (68 FR 19375). These standards regulate fugitive emissions from reinforced plastic composites (RPC) production operations and processes resulting from hazardous air pollutants (HAPs) evaporating from the resins, gel coats, and cleaning solvents.

Owners and operators of affected sources are subject to the monitoring, recordkeeping and reporting requirements of 40 CFR part 63, subpart A, the General Provisions, unless specified otherwise in the regulation. This rule requires sources to submit initial notifications, conduct performance tests if source is using an add-on control device, and submit periodic compliance reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation if using an add-on control device; any period during which the monitoring system is inoperative; parametric monitoring data; system maintenance and calibration; and work practices to demonstrate initial and ongoing compliance with the regulation.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Reinforced plastic composites production facilities.

**Estimated Number of Respondents:** 504.

**Frequency of Response:** Initially, and semiannually.

**Estimated Total Annual Hour Burden:** 17,740.

**Estimated Total Annual Cost:** \$1,454,143, including: \$1,432,143 in annual labor costs, \$22,000 in O&M costs, and no annualized capital costs.

**Changes in the Estimates:** There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: April 13, 2009.

**John Moses,**

Acting Director, Collection Strategies Division.

[FR Doc. E9-8848 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2004-0501; FRL-8893-2]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Reporting Requirements Under EPA's Green Power Partnership and Combined Heat and Power Partnership (Renewal); EPA ICR Number 2173.02, OMB Control No. 2060-0578**

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

**DATES:** Any additional comments on this ICR should be submitted on or before May 18, 2009.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2004-0501, to (1) EPA online using <http://www.regulations.gov> (our preferred method), by e-mail to [a-and-r-docket@epamail.epa.gov](mailto:a-and-r-docket@epamail.epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue,



NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Allison Bellins, Climate Protection Partnerships Division, Office of Atmospheric Programs, 6202J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202-343-9526; fax number: 202-343-2208; e-mail address [bellins.Allison@epa.gov](mailto:bellins.Allison@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 31, 2008 (73 FR 64941), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2004-0501, which is available for viewing at <http://www.regulations.gov>, or in person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the reading room is 202-566-1744, and the telephone number for the Air and Radiation Docket is 202-566-1742.

Use EPA's electronic docket and comment system at <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov>, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

**Title:** Reporting Requirements under EPA's Green Power Partnership and

Combined Heat and Power Partnership (Renewal).

**ICR Numbers:** EPA ICR No. 2173.02, OMB Control No. 2060-0538.

**ICR Status:** This ICR is scheduled to expire on April 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations in Title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** In an effort to aid implementation of the President's May 2001 National Energy Strategy, as well as the President's February 2002 Climate Change Strategy, EPA launched two new partnership programs with industry and other stakeholders: the Green Power Partnership and the Combined Heat and Power (CHP) Partnership. These voluntary partnership programs encourage organizations to invest in clean, efficient energy technologies, including renewable energy and combined heat and power. To continue to be successful, it is critical that EPA collect information from Green Power and CHP Partners to ensure these organizations are meeting their renewable energy and CHP goals and to assure the creditability of these voluntary partnership programs.

EPA has developed this ICR to obtain authorization to collect information from organizations participating in the Green Power Partnership and CHP Partnership. Organizations that join these programs voluntarily agree to the following respective actions: (1) designating a Green Power or CHP liaison and filling out a Partnership Agreement or Letter of Intent (LOI) respectively, (2) for the Green Power Partnership, reporting to EPA, on an annual basis, their progress toward their green power commitment via a 2-page reporting form; (3) for the CHP Partnership, reporting to EPA information on their existing CHP projects and CHP development activity. EPA uses the data obtained from its partners to assess the success of these programs in achieving that national energy and greenhouse gas (GHG) reduction goals. Partners are organizational entities that have

volunteered to participate in either Partnership program.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to equal 5,823 hours and to average 3.25 hours per year per response.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Companies, institutions, non-governmental organizations, and State/local governments that participate in the Green Power and Combined Heat and Power Partnerships.

**Estimated Number of Respondents:** 1,794.

**Frequency of Response:** Annual, on occasion, once.

**Estimated Total Annual Hour Burden:** 5,823.

**Estimated Total Annual Cost:** \$517,118, which includes \$0 annualized Capital Startup costs, \$5,466 annualized Operating and Maintenance (O&M) costs and \$511,652 annualized Labor costs.

**Changes in Estimates:** There is an increase of 1,824 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. Since the last ICR renewal, both the Green Power Partnership and CHP Partnership have introduced program efficiencies to reduce program burden and simplified collection forms into pre-populated spreadsheets or documents. As a result of these changes, the average number of hours per Partner has decreased from 3.4 hours to 3.25 hours but the total hourly burden still increased because of an increase in the number of Partners. For perspective on the magnitude of partner growth, the number of Partners at the end of 2004 was 865, whereas by year-end there will be an estimated 1,308.

Dated: April 13, 2009.

John Moses,

Acting Director, Collection Strategies  
Division.

[FR Doc. E9-8897 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2008-0367; FRL-8893-4]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Brick and Structural Clay Manufacturing, EPA ICR Number 2022.04, OMB Control Number 2060-0508

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before May 18, 2009.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-OECA-2008-0367, to (1) EPA online using <http://www.regulations.gov> (our preferred method), or by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Sounjay Gairola, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564-4003; e-mail address: [gairola.sounjay@epa.gov](mailto:gairola.sounjay@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 FR 31088), EPA

sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2008-0367, which is available for public viewing online at <http://www.regulations.gov>, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566-1927.

Use EPA's electronic docket and comment system at <http://www.regulations.gov>, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov>, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

**Title:** NESHAP for Brick and Structural Clay Manufacturing (Renewal).

**ICR Numbers:** EPA ICR Number 2022.04, OMB Control Number 2060-0508.

**ICR Status:** This ICR is scheduled to expire on June 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if

applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Brick and Structural Clay Manufacturing were proposed on July 22, 2002 (67 FR 47894), and were promulgated on May 16, 2003 (68 FR 26690).

The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the provisions specified at 40 CFR part 63, subpart JJJJ.

Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 85 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Brick and structural clay manufacturers.

**Estimated Number of Respondents:** 72.

**Frequency of Response:** Initially, occasionally and semiannually.

**Estimated Total Annual Hour Burden:** 14,086.

**Estimated Total Annual Cost:** \$1,152,404, which is comprised of \$1,137,652 in Labor costs, \$10,000 in annualized capital/startup costs, and O&M costs of \$4,752.

**Changes in the Estimates:** There is no change in the total estimated burden currently identified in the OMB



Inventory of Approved ICR Burdens. Apparent differences of less than 500 hours are attributable to rounding; in previous years, hours were rounded to the nearest thousand; this ICR presents more exact figures.

Dated: April 13, 2009.

**John Moses,**  
*Acting Director, Collection Strategies Division.*

[FR Doc. E9-8860 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2008-0285; FRL-8893-3]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Paper and Other Web Coating (Renewal), EPA ICR Number 1951.04, OMB Control Number 2060-0511

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before May 18, 2009.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-HQ-OECA-2008-0285, to (1) EPA online using <http://www.regulations.gov> (our preferred method), or by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone

number: (202) 564-4113; fax number: (202) 564-0050; e-mail address: [williams.learia@epa.gov](mailto:williams.learia@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 FR 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2008-0285, which is available for public viewing online at <http://www.regulations.gov>, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566-1927.

Use EPA's electronic docket and comment system at <http://www.regulations.gov>, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper will be made available for public viewing at <http://www.regulations.gov>, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

**Title:** NESHAP for Paper and Other Web Coating (Renewal).

**ICR Numbers:** EPA ICR Number 1951.04, OMB Control Number 2060-0511.

**ICR Status:** This ICR is schedule to expire on June 30, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paper and Other Web Coating were proposed on September 13, 2000 (65 FR 55331), and promulgated on December 4, 2002 (67 FR 72341). These standards apply to each existing, new, or reconstructed paper and other Web coating (POWC) plant.

Owners or operators of the affected facilities must make the following notification: (1) Initial notification; (2) notification of performance test; and (3) notification of compliance status. Affected sources must submit performance test reports, and a startup, shutdown, malfunction (SSM) report. Owners or operators are also required to maintain records on a monthly basis. They are: (1) Continuous emission monitor data; (2) control device and capture system operating parameter data; (3) organic HAP content data; (4) volatile matter and coating solids content data; (5) overall control efficiency determination using capture efficiency and control device; (6) material usage, organic HAP usage, volatile matter usage, and coating solids usage; and (7) liquid-liquid material balances. Semiannual compliance reports are also required.

Any owner or operator subject to the provisions of this subpart must maintain a file of these measurements, and retain the file for at least five years following the collection of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

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 Number for EPA regulations listed in 40 CFR part 9 and 48 CFR chapter 15, are identified on the form and/or instrument, if applicable.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 23 hours per response. Burden means the total time,

effort, or financial resources expended by persons to generate, maintain, retain, or disclose and 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. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Paper and other Web coating manufacturers.

**Estimated Number of Respondents:** 215.

**Frequency of Response:** Initially, monthly, semiannually, and occasionally.

**Estimated Total Annual Hour Burden:** 11,312.

**Estimated Total Annual Cost:** \$1,765,629, which is comprised of \$913,229 in Labor costs, \$233,500 in capital/startup costs and O&M costs of \$618,900.

**Changes in the Estimates:** There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the current growth rate for the industry is very low, negative or nonexistent, so there is no significant change in the overall burden. It should be noted that there is a correction to labor cost. We also rounded-up the cost figures to the nearest dollar.

Dated: April 13, 2009.

**John Moses,**

*Acting Director, Collection Strategies Division.*

[FR Doc. E9-8853 Filed 4-16-09; 8:45 am]

**BILLING CODE**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2009-0232; FRL-8408-8]

### Certain New Chemicals; Receipt and Status Information

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

**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires

any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 1, 2009 through March 20, 2009, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

**DATES:** Comments identified by the specific PMN number or TME number, must be received on or before May 18, 2009.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2009-0232, by one of the following methods:

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

- **Mail:** Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Hand Delivery:** OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA-HQ-OPPT-2009-0232. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPPT-2009-0232. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through [regulations.gov](http://regulations.gov) or e-mail. The [regulations.gov](http://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://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the docket index available in [regulations.gov](http://regulations.gov). To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be

visible at all times in the building and returned upon departure.

**FOR FURTHER INFORMATION CONTACT:** Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the

comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

**II. Why is EPA Taking this Action?**

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on

the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 1, 2009 through March 20, 2009, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

**III. Receipt and Status Report for PMNs**

This status report identifies the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit I. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 35 PREMANUFACTURE NOTICES RECEIVED FROM: 3/1/09 TO 3/20/09

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P-09-0249	02/27/09	05/27/09	CBI	(G) Additive for use in thermoset adhesives	(S) Cyclosiloxanes, 3-[2-hydroxy-3-[(1-oxo-2-propen-1-yl)oxy]propoxy]propyl ME, 3-[3-hydroxy-2-[(1-oxo-2-propen-1-yl)oxy]propoxy]propyl ME, ME 3-(2-oxiranylmethoxy)propyl
P-09-0250	02/26/09	05/26/09	CBI	(S) Fixative for cellulose based substrates in paper manufacturing industry	(G) Aminoalkyl polymer with (chloromethyl)oxirane
P-09-0251	03/03/09	05/31/09	The Dow Chemical Company	(S) Hardener for epoxy thermoset systems	(G) (1,3/1,4-bis(aminomethyl)cyclohexane adduct
P-09-0252	03/03/09	05/31/09	The Dow Chemical Company	(S) Hardener for epoxy thermoset systems	(G) (1,3/1,4-bis(aminomethyl)cyclohexane adduct
P-09-0253	03/02/09	05/30/09	CBI	(G) Additive, open, non-dispersive use	(G) Polyether polyester copolymer phosphate
P-09-0254	03/02/09	05/30/09	CBI	(G) Additive, open, non-dispersive use	(G) Polyacrylate, modified with siloxanes

## I. 35 PREMANUFACTURE NOTICES RECEIVED FROM: 3/1/09 TO 3/20/09—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P-09-0255	03/03/09	05/31/09	CBI	(G) Contained use in energy production	(G) Alkoxyated amine
P-09-0256	03/05/09	06/02/09	CBI	(G) Destructive use in refineries as a process additive	(G) Alkyl ether phosphate salt
P-09-0257	03/05/09	06/02/09	Cnano Corporation	(G) Intended as contained use, namely as electric conductive filler to replace conventional material such as carbon black, or carbon fiber in matrixes such as polymer resin for conductive applications. It could be used as a filler as well for mechanic property enhancement.	(S) Multi-wall carbon nanotube
P-09-0258	03/06/09	06/03/09	CBI	(S) Raw material used in ultra violet curable inks and coatings	(G) Bis-phenoxyethanol fluorene diacrylate
P-09-0259	03/06/09	06/03/09	CBI	(S) Synthetic intermediate	(G) Aromatic bromide
P-09-0260	03/09/09	06/06/09	CBI	(G) Open non-dispersive use (industrial coating resin)	(G) Polyester polyurethane resin aqueous dispersion
P-09-0261	03/09/09	06/06/09	CBI	(G) Destructive use	(G) Organic acid metal halide complex
P-09-0262	03/10/09	06/07/09	Beacon Solutions LLC	(S) Acid dye for coloring anodized aluminum	(G) Product is a trivalent chrome complex of an azo dye
P-09-0263	03/10/09	06/07/09	Firmenich Inc.	(S) Aroma for use in fragrance mixtures, which in turn are used in perfumes, soaps, cleansers, etc.	(S) 4-dodecenenitrile, (4Z)-
P-09-0264	03/11/09	06/08/09	Essential Industries	(S) Raw material for industrial coating	(G) Aliphatic polyurethane dispersion
P-09-0265	03/11/09	06/08/09	Essential Industries	(S) Raw material for industrial coating	(G) Aliphatic polyurethane dispersion
P-09-0266	03/11/09	06/08/09	Essential Industries	(S) Raw material for industrial coating	(G) Aliphatic polyurethane dispersion
P-09-0267	03/11/09	06/08/09	Essential Industries	(S) Raw material for industrial coating	(G) Aliphatic polyurethane dispersion
P-09-0268	03/11/09	06/08/09	Air Liquide Electronics US, L.P.	(S) Zirconium source for semiconductor industry	(G) Tris (dimethylamino) cyclopentadienyl zirconium
P-09-0269	03/11/09	06/08/09	CBI	(G) Open, non-dispersive (resin)	(G) Crosslinked polystyrene resin with chelating bispicolylamine groups
P-09-0270	03/11/09	06/08/09	CBI	(G) Industrial wood coating	(G) Multifunctional acrylate
P-09-0271	03/11/09	06/08/09	ICI-IP America Inc.	(G) Flame retardant	(G) Aryl alkylphosphonate
P-09-0272	03/11/09	06/08/09	Huntsman International, LLC	(S) Disperse dye for polyester fabrics	(G) Substituted phenyl azo substituted phenyl alkyl ester
P-09-0273	03/13/09	06/10/09	CBI	(G) Used in ultra violet/electro beam curable formulations	(G) Poly[oxo(methyl-1,2-ethanediyl)], .alpha., .alpha."-1,2,3-propanetriyltris[.omega.-hydroxy-, triester with isophorone diisocyanate and blocked with a hydroxyl bearing aromatic species
P-09-0274	03/13/09	06/10/09	Cytec Industries Inc.	(G) Coating resin	(G) Polymeric substituted carbomonocycle, polymer with alkylthiol, substituted carbomonocycles, and alkyl acrylate-blocked
P-09-0275	03/13/09	06/10/09	Cytec Industries Inc.	(G) Coatings resin	(G) Aromatic epoxy diacrylate, polymer with diisocyanate, alkylthiol and substituted carbonmonocycles
P-09-0276	03/16/09	06/13/09	CBI	(G) Component in resin	(G) Aliphatic diol polymer with isocyanates and acrylates
P-09-0277	03/17/09	06/14/09	CBI	(G) Polymeric coating vehicle	(G) Acrylamide acrylic copolymer
P-09-0278	03/17/09	06/14/09	CBI	(G) Polymeric coating vehicle	(G) Acrylamide acrylic copolymer salt
P-09-0279	03/18/09	06/15/09	CBI	(G) Additive, open, non-dispersive use	(G) Styrene-maleic anhydride copolymer, reaction product with amino compounds
P-09-0280	03/18/09	06/15/09	CBI	(G) Additive, open, non-dispersive use	(G) Styrene-maleic anhydride copolymer, reaction product with amino compounds
P-09-0281	03/18/09	06/15/09	CBI	(G) Additive, open, non-dispersive use	(G) Styrene-maleic anhydride copolymer, reaction product with amino compounds
P-09-0282	03/18/09	06/15/09	CBI	(G) Additive, open, non-dispersive use	(G) Styrene-maleic anhydride copolymer, reaction product with amino compounds
P-09-0283	03/19/09	06/16/09	CBI	(S) Ingredient in fragrance compound	(G) N-(isobutyl)-decatrienamide

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

### II. 2 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 3/1/09 TO 3/20/09

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T-09-0006	03/16/09	04/29/09	Cytec Industries Inc.	(G) Coating resin	(G) Polymeric substituted carbomonocycle, polymer with alkylthiol, substituted carbomonocycles, and alkyl acrylate-blocked
T-09-0007	03/16/09	04/29/09	Cytec Industries Inc.	(G) Coatings resin	(G) Aromatic epoxy diacrylate, polymer with diisocyanate, alkylthiol and substituted carbonmonocycles

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

### III. 21 NOTICES OF COMMENCEMENT FROM: 3/1/09 TO 3/20/09

Case No.	Received Date	Commencement Notice End Date	Chemical
P-08-0002	03/04/09	02/23/09	(S) Benzonitrile, 4-hydroxy-3,5-dimethoxy- (syringonitrile)
P-08-0168	03/03/09	02/13/09	(G) Potassium humate, polymer with acrylic monomers
P-08-0180	03/03/09	02/11/09	(G) Salt of condensation product of cyclic diketone
P-01-0838	03/16/09	02/18/09	(G) Alcohol, ethoxylated, propoxylated
P-03-0703	03/10/09	02/20/09	(G) Water redispersible actionic acrylic copolymer
P-03-0843	03/17/09	03/09/09	(G) Styrene copolymer
P-04-0192	03/17/09	11/03/08	(G) Alkylthioalkane
P-07-0627	03/10/09	01/30/09	(G) Acrylic polymer
P-08-0002	03/04/09	02/23/09	(S) Benzonitrile, 4-hydroxy-3,5-dimethoxy- (syringonitrile)
P-08-0168	03/03/09	02/13/09	(G) Potassium humate, polymer with acrylic monomers
P-08-0180	03/03/09	02/11/09	(G) Salt of condensation product of cyclic diketone
P-08-0200	03/13/09	02/21/09	(G) Partially fluorinated amphiphilic condensation polymer
P-08-0239	03/16/09	03/06/09	(G) Alkenyltrialkoxysilane modified polysiloxane
P-08-0283	03/13/09	03/06/09	(S) Octadecanoic acid, 12-hydroxy-, homopolymer, ester with 1,2,3-propanetriol homopolymer
P-08-0365	03/16/09	02/21/09	(G) Hydrogenated polybutadiene acrylate
P-08-0649	03/04/09	02/18/09	(G) Organic salt of a polyester polyamine
P-08-0658	03/06/09	02/18/09	(G) Fatty acids, C <sub>18</sub> -unsaturated, dimers, polymers with diamines and monoacids
P-08-0683	03/18/09	02/26/09	(G) Ethoxylated maleated triglyceride polymer
P-08-0738	03/16/09	03/09/09	(S) Magnesium bis[3-[[[(carboxy-kappa O)methyl] (4-methylphenyl)amino-kappa N]-2-hydroxypropyl 2-methyl-2-propenoate]-, (7-4)-*
P-09-0074	03/16/09	03/09/09	(S) Butanedioic acid, methylene-, polymer with (2Z)-2-butenedioic acid and 2-propenoic acid
P-09-0079	03/11/09	02/27/09	(G) Polyester resin

#### List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: March 31, 2009.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E9-8875 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-S

#### ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8592-4]

#### Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nea/>.

Weekly receipt of Environmental Impact Statements

Filed 04/06/2009 through 04/10/2009 Pursuant to 40 CFR 1506.9

EIS No. 20090112, Draft EIS, NPS, 00, Long Walk National Historic Trail

Feasibility Study, To Evaluate the Suitability and Feasibility of Designating the Routes, Implementation, Apache, Coconino, Navajo Counties, AZ; Bernalillo, Cibola, De Baca, Guadalupe, Lincoln, McKinley, Mora, Otero, Santa Fe, Sandoval, Torrance, Valencia Counties, NM, Comment Period Ends: 06/16/2009, Contact: Sharon Brown, 505-988-6717.

EIS No. 20090113, Draft EIS, AFS, 00, Ashley National Forest Motorized Travel Plan, To Improve Management of Public Summer Motorized Use by Designating Roads and Motorized Trails and Limiting Dispersed



Camping to Areas, Duchesne, Daggett, Uintah Counties, Utah and Sweetwater County, Wyoming, Comment Period Ends: 06/01/2009, Contact: Lesley Tullis, 435-781-5137.

*EIS No. 20090114, Third Final Supplement, COE, CA, Port of Los Angeles Channel Deepening Project, To Dispose of Approximately 3.0 Million Cubic Yards of Dredge Material Required to Complete the Channel Deepening Project and to Beneficially Reuse the Dredge Material with the Port of Los Angeles, Los Angeles County, CA, Wait Period Ends: 05/18/2009, Contact: Joy Jaiswal, 213-452-3851.*

*EIS No. 20090115, Draft EIS, SFW, 00, Western Snowy Plover Habitat Conservation Plan, Proposed Issuance of an Incidental Take Permit, Oregon Parks and Recreation Department, Oregon Coast, OR, CA, WAS, Comment Period Ends: 06/16/2009, Contact: Laura Todd, 541-867-4558.*

*EIS No. 20090116, Final EIS, AFS, WY, Spruce Gulch Bark Beetle and Fuels Reduction Project, Proposes to Implement Bark Beetle Related Salvage and Suppression Vegetative Treatments and Hazardous Fuels Abatement Treatments, Laramie Ranger District, Medicine Bow-Rout National Forests, Albany and Carbon Counties, WY, Wait Period Ends: 05/18/2009, Contact: Melissa Martin, 307-745-2371.*

#### Amended Notices

*EIS No. 20090100, Draft EIS, BLM, UT, Withdrawn—Mona to Oquirrh Transmission Corridor Project, Construction, Operation, Maintenance and Decommissioning a Double-Circuit 500/345 Kilovolt (Kv) Transmission Line, Right-of-Way Grant, Rocky Mountain Power, Juab, Salt Lake, Tooele and Utah Counties, UT, Comment Period Ends: 07/08/2009, Contact: Megan Crandall, 801-539-4061.*

Revision to FR Notice Published 04/10/2009: Officially Withdrawn by the Preparing Agency.

*EIS No. 20090104, Draft EIS, BIA, NY, Withdrawn—Cayuga Indian Nation of New York Conveyance of Land into Trust Project, Approval of a 125+ Acre Fee-to-Trust Property Transfer of Seven Separate Parcel located in the Village of Union Springs and Town of Springport and Montequama in Cayuga County and the Town of Seneca Falls in Seneca County, NY, Comment Period Ends: 05/26/2009, Contact: Kurt G. Chandler, 615-564-6832.*

Revision to FR Notice Published 04/10/2009: Officially Withdrawn by the Preparing Agency.

Dated: April 14, 2009.

Ken Mittelholtz,

*Environmental Protection Specialist, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. E9-8857 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

ER-FRL-8592-5]

#### 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.

#### Summary of Rating Definitions

##### Environmental Impact of the Action

###### LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

###### EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

###### EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that is of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

#### Adequacy of the Impact Statement

##### Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

##### Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that is within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

##### Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that is outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

#### Draft EISs

*EIS No. 20080523, ERP No. D-BLM-J03022-00, UNEV Pipeline Project,*



Construction of a 399-mile Long Main Petroleum Products Pipeline, Salt Lake, Tooele, Juab, Millard, Iron, and Washington Counties, UT and Lincoln and Clark Counties, NV.

**Summary:** EPA expressed environmental concerns about potential adverse impacts to human health and the environment from arsenic and lead contaminated soils, and to wetlands and aquatic resources. In addition, the final EIS should better characterize the existing air quality conditions, update criteria used in determining air quality impact projections, and include information on visibility. Rating EC2.

**EIS No. 20080537, ERP No. D-BLM-K65352-NV, Ely Energy Center, Construction and Operation 1500 MW Coal-Fired Power Plant and Associated Features, White Pine, Lincoln, Clark, Nye, Elko and Nevada Counties, NV.**

**Summary:** EPA expressed environmental concerns about aquatic resource, endangered species, and construction emission impacts. Rating EC2.

**EIS No. 20090017, ERP No. D-USN-K11022-GU, Mariana Islands Range Complex (MIRC), To Address Ongoing and Proposed Military Training Activities, Mariana Islands, GU.**

**Summary:** EPA expressed environmental concerns about impacts to coral reef ecosystems, water quality, and the threatened green sea turtle. Rating EC2.

**EIS No. 20090035, ERP No. D-AFS-K65357-CA, Tehachapi Renewable Transmission Project, Construct, Operate and Maintain Ne and Upgraded 500 kV and 220kV Transmission Lines and Substations, Special Use Authorization, Angeles National Forest, Los Angeles County, CA.**

**Summary:** EPA expressed environmental concerns about the potential adverse impacts to aquatic and biological resources. Analysis of potential health impacts from lead and arsenic from construction on an NPL smelter site and mitigation measures should be addressed in the final EIS. Rating EC2.

**EIS No. 20090039, ERP No. D-AFS-J65531-SD, Telegraph Project Area, Proposes to Implement Multiple Resource Management Actions, Northern Hills Ranger District, Black Hills National Forest, Lawrence and Pennington Counties, SD.**

**Summary:** EPA expressed environmental concerns about the water quality and wildlife habitat impacts

associated with significant new road construction activities. Rating EC2.

**EIS No. 20090043, ERP No. DR-AFS-K65342-CA, Moonlight and Wheeler Fires Recovery and Restoration Project, Analysis of the No-Action and Action Alternatives, Mt. Hough Ranger District, Plumas National Forest, Plumas County, CA.**

**Summary:** EPA expressed environmental concerns about potential adverse impacts to water quality and wildlife habitat. EPA recommends that the Forest Service consider incorporating elements of other proposed alternatives into the preferred alternative, to minimize adverse impacts to damaged watersheds. Rating EC2.

#### Final EISs

**EIS No. 20090050, ERP No. F-NIG-K60038-CA, Graton Rancheria Casino and Hotel Project, Transfer of Land into Trust, Implementation, Federated Indians of Graton Rancheria (Tribe), Sonoma County, CA.**

**Summary:** EPA continue to have environmental concerns about impacts to groundwater resources.

Dated: April 14, 2009.

**Ken Mittelholtz,**

*Environmental Protection Specialist, Office of Federal Activities.*

[FR Doc. E9-8862 Filed 4-16-09; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0470; FRL-8409-2]

### Pesticide Product Registration Approval

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

**ACTION:** Notice.

**SUMMARY:** This notice announces Agency approval of an application to register the pesticide products NEU1173H Concentrate, and NEU1173H RTU containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**FOR FURTHER INFORMATION CONTACT:** Driss Benmhend, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9525; e-mail address: benmhend.driss@epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does this Action Apply to Me?

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

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

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

### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0470. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and

registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>.

## II. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of Iron HEDTA (FeHEDTA), and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of the active ingredient, Iron HEDTA (FeHEDTA) in accordance with widespread and commonly recognized practices will not generally cause unreasonable adverse effects to the environment.

## III. Approved Application

EPA issued a notice, published in the **Federal Register** of June 25, 2008 (73 FR 36076) (FRL-8368-3), which announced that W. Neudorff GmbH KG Neudorff GmbH KG c/o Walter G. Talarek PC, 1008 Riva Ridge Drive, Great Falls, VA 22066-1620, had submitted an application to register the pesticide products, NEU1173H Concentrate (EPA File Symbol: 67702-EA), and NEU1173H RTU (EPA File Symbol: 67702-ET). *Type of product:* Herbicide. *Active ingredient:* Iron HEDTA (FeHEDTA) at 26.52% and 1.5% respectively. This product was not previously registered.

The application was approved on December 9, 2008, as NEU1173H Concentrate herbicide, EPA Registration Number 67702-26, and NEU1173H RTU, EPA Reg. Number 67702-27 for household and commercial use as herbicides.

### List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: April 7, 2009.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. E9-8880 Filed 4-16-09; 8:45 a.m.]

BILLING CODE 6560-50-S

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

**SUMMARY:** In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and renewal of the collections of information described below:

**DATES:** Comments must be submitted on or before May 18, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments to FDIC by any of the following methods. All comments should refer to the name of the collection as well as the OMB control number(s):

- *Web site:* <http://www.FDIC.gov/regulations/laws/federal/notices.html>.
- *E-mail:* [Comments@FDIC.gov](mailto:Comments@FDIC.gov).

Include the name of the collection in the subject line of the message.

- *Mail:* Herbert J. Messite, Counsel, 202-898-6834, Legal Division, Federal Deposit Insurance Corporation, 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.

*Public Inspection:* All comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html> including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E-1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

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, Room 10235, 727 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Herbert J. Messite at the address identified above.

**SUPPLEMENTARY INFORMATION:**

### Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Customer Assistance.  
*OMB Number:* 3064-0134.  
*Form Number:* FDIC 6422/04.  
*Frequency of Response:* On occasion.  
*Affected Public:* Individuals, Households, Business or other financial institutions.

*Estimated Number of Respondents:* 5000.

*Estimated Time per Response:* 0.5 hours.

*Total Annual Burden:* 2500 hours.  
*General Description of Collection:*

This collection permits the FDIC to collect information from customers of financial institutions who have inquiries or complaints about service. Customers may document their complaints or inquiries to the FDIC using a letter or an optional form (6422/04).

2. *Title:* Asset Purchaser Eligibility Certification.

*OMB Number:* 3064-0135.  
*Form Number:* FDIC 7300/06.  
*Frequency of Response:* On occasion.  
*Affected Public:* Business or other financial institutions.

*Estimated Number of Respondents:* 2500.

*Estimated Time per Response:* 0.5 hours.

*Total Annual Burden:* 1250 hours.  
*General Description of Collection:* The FDIC will use the Asset Purchaser Eligibility Certification to assure compliance with statutory restrictions on who may purchase assets held by the FDIC.

### Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, 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. All comments will become a matter of public record.

Dated at Washington, DC, this 13th day of April 2009.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. E9-8788 Filed 4-16-09; 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 May 1, 2009.

**A. Federal Reserve Bank of St. Louis** (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166-2034:

1. *Monte M. Doing*, Springfield, Missouri, individually, and in concert with Glen Garrett, Purdy, Missouri; Ozark Heritage Financial Group, Inc., Springfield, Missouri; Rocky R. Levell, Naples, Florida; John E. Sherwood, Miromar Lakes, Florida; Jerry Scott Whisman, Monett, Missouri; Dennis K. Marlin, and Kenneth A. Schwab, both of Springfield, Missouri, to acquire voting shares of OakStar Bancshares, Inc., and thereby indirectly acquire voting shares of OakStar Bank, N.A., both of Springfield, Missouri.

**B. Federal Reserve Bank of Dallas** (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Patrick W. Hopper* (as trustee of the *PWH Trust UTD 3/2/94*), Henderson, Nevada; to acquire additional voting shares of Professional Capital, Inc., and thereby indirectly acquire additional voting shares of Professional Bank, National Association, both of Dallas, Texas.

Board of Governors of the Federal Reserve System, April 13, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9-8768 Filed 4-16-09; 8:45 am]

BILLING CODE 6210-01-S

**FEDERAL RETIREMENT THRIFT INVESTMENT BOARD****Employee Thrift Advisory Council**

**TIME AND DATE:** 10 a.m. (EST) April 22, 2009.

**PLACE:** 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of the minutes of the February 4, 2009 meeting.
2. Report of the Executive Director.
3. Discussion of legislative proposals.
4. New business.

**CONTACT PERSON FOR MORE INFORMATION:**

Thomas K. Emswiler, Committee Management Officer, (202) 942-1660.

Dated: April 15, 2009.

**Thomas K. Emswiler,**

*General Counsel, Federal Retirement Thrift Investment Board.*

[FR Doc. E9-9047 Filed 4-15-09; 4:15 pm]

BILLING CODE P

**FEDERAL TRADE COMMISSION****Privacy Act of 1974; System of Records Notices**

**AGENCY:** Federal Trade Commission (FTC).

**ACTION:** Notice of revised Privacy Act system notices.

**SUMMARY:** The FTC is revising several of the notices that it is required to publish under the Privacy Act of 1974 to describe its systems of records about individuals. This action is intended to make these notices clearer, more accurate, and up-to-date.

**DATES:** This notice shall become final and effective on April 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Alex Tang, G. Richard Gold, or Lorielle L. Pankey, Attorneys, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2424.

**SUPPLEMENTARY INFORMATION:** To inform the public, the FTC publishes in the **FEDERAL REGISTER** and posts on its Web site a "system of records notice" (SORN) for each system of records about individuals that the FTC currently maintains within the meaning of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. See (<http://www.ftc.gov/foia/listofpaysystems.shtm>). Each SORN describes the records maintained in that particular system, including the categories of individuals that the records in the system are about (e.g., FTC employees or consumers). Each

system notice also contains information about how to find out if that particular system contains any records about you.

On June 12, 2008, the FTC republished and updated all of the FTC's SORNs, describing all of the agency's systems of records covered by the Privacy Act in a single document for ease of use and reference. 73 FR 33592. To ensure the SORNs remain accurate, FTC staff engages in a comprehensive review of each SORN on a periodic basis. As a result of this systematic review, the FTC is making the following revisions to several of its SORNs.<sup>1</sup>

**I. FTC Law Enforcement Systems of Records**

*FTC-I-1 (Nonpublic Investigational and Other Nonpublic Legal Program Records—FTC).* This SORN includes nonpublic investigational and other nonpublic program records. We have added language that clarifies the categories of individuals and types of records covered by the system.

*FTC-I-7 (Office of Inspector General Investigative Files—FTC).* This SORN covers investigatory records in the FTC's Office of Inspector General (OIG). The FTC is revising the retention and disposal section of this SORN to reflect that these records are retained indefinitely, pending approval of an applicable retention and disposal schedule by the National Archives and Records Administration.

**II. FTC Personnel Systems of Records**

*FTC-II-1 (General Personnel Records—FTC).* This SORN covers Official Personnel Folders (OPFs) and other personnel records that the FTC's Human Resources Management Office (HRMO) maintains about FTC employees. We are including additional authorities for the system.

*FTC-II-2 (Unofficial Personnel Records—FTC).* This SORN covers personnel records maintained outside of the FTC's HRMO by FTC managers about their employees, including employee performance files. We are including additional authorities for the system.

*FTC-II-7 (Ethics Program Records—FTC).* This SORN covers annual financial statements and other filings or requests made by FTC officials and employees under the FTC's ethics program. The FTC is making a technical revision to reflect the appropriate title of

<sup>1</sup> The FTC is not adding or changing any routine uses of its system records or making other significant system changes that would require prior public comment or notice to the Office of Management & Budget (OMB) and Congress. See U.S.C. 552a(e)(11), (r); OMB Circular A-130, Appendix I.

the system manager ("Designated Agency Ethics Official" as opposed to "Designated Agency Ethics Officer").

*FTC-II-10 (Employee Health Care Records—FTC).* This SORN covers records maintained by the FTC's employee health unit, which relies upon a U.S. Department of Health and Human Services Program Support Center (PSC) contractor to provide on-site health services to our employees at certain FTC facilities. The FTC is revising this SORN to clarify that this system excludes medical records pertaining to requests for reasonable accommodation, see Sections 501 and 505 of the Rehabilitation Act of 1973 as amended (Pub. L. 93-112), which would be covered by the applicable OPM Government-wide SORN, OPM/GOVT-10 (Employee Medical File System Records). See 71 FR 35342, 35360 (June 19, 2006).

### III. FTC Financial Systems of Records

*FTC-III-1 (Personnel Payroll System—FTC).* This SORN covers payroll processing records for FTC employees and retirement records. The FTC is removing the reference to the Director of the Division of Finance and Budget as a system manager and leaving the Director of the Human Resources Management Office as now the sole FTC manager of this system.

### IV. FTC Correspondence Systems of Records

*FTC-IV-1 (Consumer Information System—FTC).* This SORN covers complaints and information requests received from consumers. We are including additional details about the safeguards employed to protect this information.

*FTC-IV-3 (National Do Not Call Registry—FTC).* This SORN covers records of individuals who wish to be placed on the FTC's telemarketing do-not-call list. It also covers information collected from telemarketers, sellers, or agents who are required to comply with the list, but only to the extent, if any, that such telemarketers, sellers, or agents are also "individuals" within the meaning of the Privacy Act. The FTC is revising the Authority for Maintenance of the System section to include references to the Do-Not-Call Improvement Act of 2007 (Pub. L. No. 110-187 (2008)) (eliminating the automatic removal of numbers from the registry) and the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. No. 110-188 (2008)) (modifying the fees that organizations accessing the registry must pay).

### VII. FTC Miscellaneous Systems of Records

*FTC-VII-3 (Computer Systems User Identification and Access Records—FTC).* This SORN covers records that the FTC maintains on those who have access to FTC computer systems in order to monitor and control the usage of such systems. The FTC is revising this SORN to make further clarifications in the system's scope, purpose and safeguards. We are also adding the Assistant Chief Information Officer, Operations Assurance, Office of Information and Technology Management as a system manager.

*FTC-VII-4 (Call Detail Records—FTC).* This SORN covers records that the FTC maintains on telephone usage by employees, contractors and other individuals. The FTC is revising this SORN to add the Assistant Chief Information Officer for Customer Services as a system manager.

### FTC Systems of Records Notices

Accordingly, the FTC revises and updates the Privacy Act systems of records below as follows:

#### I. FTC Law Enforcement Systems of Records

##### FTC-I-1

###### SYSTEM NAME:

Nonpublic Investigational and Other Nonpublic Legal Program Records—FTC.

\* \* \* \* \*

###### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system consists of case or matter files and other nonpublic records created, collected and maintained by the FTC's Bureaus and other offices in the course of law enforcement investigations, administrative or court litigation, and other agency legal proceedings and matters (e.g., rulemakings, requests for formal advisory opinions). The system covers investigatory targets, witnesses, consumers, redress claimants, commenters, requesters, and other individuals whose information the FTC "retrieves" from these nonpublic records, as explained below. (Entities that are not "individuals," such as businesses, sole proprietorships, or corporations, are not covered by this system.) Parties requesting informal advisory opinions are covered by FTC-

<sup>2</sup> This SORN was incorrectly identified as FTC-VII-8 in the "System-by-System SORN Summary" section of the FTC's June 12, 2008 Notice. 73 FR 33592, 33596.

I-3, Informal Advisory Opinion Request and Response Files—FTC.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this system include information about individuals such as name, address, employment status, age, date of birth, financial information, credit information, social security number and personal history. Records in this system are collected and generated during law enforcement investigations and litigation and may include: copies of subpoenas and other compulsory process issued during the investigation; documents and records (including copies) obtained during the investigation in response to subpoenas and other compulsory process, or otherwise provided to the Commission; affidavits and other statements from witnesses; transcripts of testimony taken in the investigation and accompanying exhibits; internal staff memoranda; interview notes, investigative notes, staff working papers, draft materials, and other documents and records relating to the investigation; correspondence; and internal status reports including matter initiation reports, progress reports, and closing reports. Records in this system may also include other investigatory information or data relating to any of the following: docketed and consent matters; redress distribution proceedings; rulemakings, workshops, and other public proceedings, including comments or other materials submitted in such proceedings; assurances of voluntary compliance; and advisory opinions.

This system is limited to files and records that are about an individual, and only when the file or record is pulled ("retrieved") by the name of that individual or other personal identifier (e.g., number, symbol, fingerprint, etc.). As described below, records in this system may become public if they are subject to such disclosure under the FTC's Rules of Practice.

\* \* \* \* \*

##### FTC-I-7

###### SYSTEM NAME:

Office of Inspector General Investigative Files—FTC.

\* \* \* \* \*

###### RETENTION AND DISPOSAL:

Records are retained indefinitely, pending approval of an applicable retention and disposal schedule by the National Archives and Records Administration.

\* \* \* \* \*

**II. FTC Personnel Systems of Records****FTC-II-1****SYSTEM NAME:**

General Personnel Records—FTC.

\* \* \* \* \*

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 1302, 2951, 3301, 3372, 4118, 8347; Executive Orders 9397, 9830, and 12107; and 5 CFR 293.

\* \* \* \* \*

**FTC-II-2****SYSTEM NAME:**

Unofficial Personnel Records—FTC.

\* \* \* \* \*

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 1104, 3321, 4301–4305; 4311–4315; 5405, 6101–6106; 6301–6326; 6331–6340; 6361–6373; 6381–6387; 6391; 7301–7353; 5 U.S.C. Chapter 75; Executive Order 12107; and 5 CFR 293.

\* \* \* \* \*

**FTC-II-7****SYSTEM NAME:**

Ethics Program Records—FTC.

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

Designated Agency Ethics Official, Office of General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

\* \* \* \* \*

**FTC-II-10****SYSTEM NAME:**

Employee Health Care Records—FTC.

\* \* \* \* \*

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, medical reports, opinions, evaluations, diagnoses and treatment information; and other records of the type described in the Privacy Act system of records notice published by the Health and Human Services' Program Support Center (HHS/PSC) for System No. 09-40-0005 (Public Health Service (PHS) Beneficiary-Contract Medical/Health Care Records), or any successor system notice for that system. The FTC currently has an interagency contract with HHS/PSC, which, in turn, uses private contractors to provide nursing, vaccination, and other miscellaneous on-site health care services to FTC employees.

This system (FTC-II-10) excludes other medical records, if any, that may be compiled or maintained by the FTC or a contractor on the FTC's behalf

about FTC employees resulting from: (1) a request for reasonable accommodation under Sections 501 and 505 of the Rehabilitation Act of 1973, as amended (Pub. L. 93-112); (2) a condition of the individual's employment (e.g., fitness-for-duty examination, drug testing); or (3) an on-the-job occurrence (e.g., medical injury report). Those records, if any, are described in and covered by the Office of Personnel Management (OPM) Privacy Act system of records notice for such records, OPM/GOVT-10 (Employee Medical File System Records), or any successor system notice for that system.

\* \* \* \* \*

**III. FTC Financial Systems of Records****FTC-III-1****SYSTEM NAME:**

Personnel Payroll System—FTC.

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Human Resources Management Office, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

See DOI-85 for the FPPS system manager and address.

\* \* \* \* \*

**IV. FTC Correspondence Systems of Records****FTC-IV-1****SYSTEM NAME:**

Consumer Information System—FTC.

\* \* \* \* \*

**SAFEGUARDS:**

The system can currently be accessed by FTC staff, contractors, and other system users, such as authorized law enforcement agency personnel. This access occurs via a Web-based interface and is authorized only on a need-to-know basis to those individuals and organizations requiring access. Contractors and other non-FTC users must sign confidentiality and nondisclosure agreements, and, in some cases, are required to undergo additional security clearance procedures. Letters or other system records in paper format are maintained in lockable rooms and cabinets. Access to the electronic database requires users to have the correct "user ID" and password combination, individual security token code, and Internet protocol ("IP") address for the user's law enforcement agency. The system database is maintained on secure servers, protected by firewalls, access and usage logs, and other security controls. Servers are maintained in a

secure physical environment, including building locks, security guards, and cameras.

\* \* \* \* \*

**FTC-IV-3****SYSTEM NAME:**

National Do Not Call Registry System—FTC.

\* \* \* \* \*

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Trade Commission Act, 15 U.S.C. 41 et seq., Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–6108; Do-Not-Call Implementation Act, Pub. L. No. 108-10 (2003); Do-Not-Call Improvement Act of 2007, Pub. L. No. 110-187 (2008); Do-Not-Call Registry Fee Extension Act of 2007, Pub. L. No. 110188 (2008).

\* \* \* \* \*

**VII. FTC Miscellaneous Systems of Records****FTC-VII-3****SYSTEM NAME:**

Computer Systems User Identification and Access Records—FTC.

\* \* \* \* \*

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Commission employees and others (e.g., contractors) with access to FTC computer systems, including various system platforms, applications, and databases (e.g., Outlook, Business Objects, Oracle, Redress, STAFFID, CIS, etc.), operated by the FTC or by a contractor for the FTC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This Privacy Act system consists of the login and other user identification and access records that FTC computer systems routinely compile and maintain about users of those systems. These records include user data such as: user name; e-mail address; employee or other user identification number; organization code; systems or services to which the individual has access; systems and services used; amount of time spent using each system; number of usage sessions; and user profile. These system records include log-in, passphrase, and other system usage files and directories when they contain data on specific users. Many FTC computer systems collect and maintain additional information, other than system use data, about individuals inside and outside the FTC. See a complete list of FTC Privacy Act systems on the FTC's Web site, (<http://www.ftc.gov/foia/listofpaysystems.shtml>), to learn about



other categories of information collected and maintained about individuals in the FTC's computer systems.

\* \* \* \* \*

**PURPOSE(S):**

To monitor usage of computer systems; to support server and desktop hardware and software; to ensure the availability and reliability of the agency computer facilities; to help document and/or control access to various computer systems; to audit, log, and alert responsible FTC personnel when certain personally identifying information is accessed in specified systems; to prepare budget requests for automated services; to identify the need for and to conduct training programs, which can include the topics of information security, acceptable computer practices, and FTC information security policies and procedures; to monitor security on computer systems; to add and delete users; to investigate and make referrals for disciplinary or other action if improper or unauthorized use is suspected or detected.

\* \* \* \* \*

**SAFEGUARDS:**

Access is restricted to agency personnel and contractors whose responsibilities require access. Paper records, if any, maintained in lockable rooms or file cabinets. Access to electronic records is controlled by "user ID" and passphrase combination and/or other appropriate electronic access or network controls (e.g., firewalls). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Chief Information Officer, Infrastructure Operations, Office of Information and Technology Management, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

Assistant Chief Information Officer, Operations Assurance, Office of Information and Technology Management, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

\* \* \* \* \*

**FTC-VII-4**

**SYSTEM NAME:**

Call Detail Records—FTC.

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Chief Information Officer, Customer Services, Office of Information and Technology Management, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

Assistant Chief Information Officer, Infrastructure Operations, Office of Information and Technology Management, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

\* \* \* \* \*

David C. Shonka,

Acting General Counsel.

[FR Doc. E9-8859 Filed 4-16-09; 8:45 am]

BILLING CODE 6750-01-5

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0079]

**Federal Acquisition Regulation; Information Collection; Corporate Aircraft Costs**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0079).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR), Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning corporate aircraft costs. This OMB clearance expires on June 30, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to

respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before June 16, 2009.

**ADDRESSES:** Submit comments, including suggestions for reducing this burden to the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Edward Chambers, Contract Policy Division, GSA, (202) 501-3221.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Government contractors that use company aircraft must maintain logs of flights containing specified information to ensure that costs are properly charged against Government contracts and that directly associated costs of unallowable activities are not charged to such contracts.

**B. Annual Reporting Burden**

*Number of Respondents:* 3,000.

*Responses Per Respondent:* 1.

*Total Responses:* 3,000.

*Average Burden Per Response:* 6 hours.

*Total Burden Hours:* 18,000.

**Obtaining Copies of Proposals:** Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), Room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0079, Corporate Aircraft Costs, in all correspondence.

Dated: April 9, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9-8789 Filed 4-16-09; 8:45 am]

BILLING CODE 6820-EP-P

**GENERAL SERVICES ADMINISTRATION**

**Federal Management Regulation; Conversion to Commercial Payment Processes for Postage**

**AGENCY:** General Services Administration (GSA).

**ACTION:** Notice of a bulletin.

**SUMMARY:** The General Services Administration (GSA) is announcing Federal Management Regulation (FMR) Bulletin G-02, which extends the previous 12-month deviation granted by GSA Bulletin FMR G-01 regarding conversion to commercial payment processes for postage. The deviation is



being extended another 12 months to allow for more time for comments on the proposed amendments that were announced in the proposed rule on mail accountability published in the **Federal Register** on January 9, 2009 (74 FR 870). GSA Bulletin FMR G-02 and all FMR bulletins may be found at <http://www.gsa.gov/fmrbulletin>.

**DATES:** This bulletin is effective from April 13, 2009, until April 13, 2010.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ken Stacey, Program Director, Mail Management Policy, Office of Governmentwide Policy, General Services Administration, Washington, DC 20405, at (202) 501-1786 or [ken.stacey@gsa.gov](mailto:ken.stacey@gsa.gov). Please cite Bulletin FMR G-02.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

GSA regulations initially published in the **Federal Register** June 6, 2002 (67 FR 38899) require that all payments to the United States Postal Service must be made using commercial payment processes, not OMAS (Official Mail Accounting System). The initial conversion date of October 1, 2003, was subsequently changed to December 31, 2003 by amendment in the **Federal Register** on September 29, 2003 (68 FR 56112). If agencies did not convert by that date, they were required to submit a deviation request for an extension. If granted, the deviations could last for no longer than a two-year period per internal GSA policy, at which time agencies had to request another deviation.

FMR Bulletin G-01 was published in the **Federal Register** on May 13, 2008 (73 FR 27540) with an effective date of April 11, 2008, until April 13, 2009.

FMR Bulletin G-02 extends the provisions of FMR Bulletin G-01 until April 13, 2010. GSA Bulletin FMR G-02 and all FMR bulletins may be found at <http://www.gsa.gov/fmrbulletin>.

Dated: April 13, 2009.

**Russell H. Pentz,**

*Assistant Deputy Associate Administrator.*

[FR Doc. E9-8884 Filed 4-16-09; 8:45 am]

**BILLING CODE 6820-14-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

[Document Identifier: OS-0990-New]

**Agency Information Collection Request: 60-Day Public Comment Request**

**AGENCY:** Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed

paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to [Sherette.funncoleman@hhs.gov](mailto:Sherette.funncoleman@hhs.gov), or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

*Proposed Project:* Evaluation of the Parents Speak Up National Campaign (PSUNC): Parent Web site Survey. OMB No. 0990-NEW—Office of Public Health and Science, Office of Population Affairs, Office of Adolescent Pregnancy Programs.

*Abstract:* The data collection will take place once, over two months, in the Fall 2009. The respondents will be 800 parents of children ages 10-14 drawn from an established online survey panel whose parental status and age of children are known. The survey will take 30 minutes, including time spent visiting a Web site. Parents will self-administer the questionnaire at home on personal computers. The specific aim of this study is to determine the usefulness of the content and Web site features of the 4parents.gov Web site by measuring parents' attitudes to, reactions to, and receptivity to the Web site and to specific sections of it. The study is being conducted by Research Triangle Institute; its subcontractor, Harris Interactive, will conduct the online survey. Harris Interactive will select 100 mothers of each of four groups of children: boys 10-12 and 13-14, and girls 10-12 and 13-14 (for a total of 400 mothers), and 100 fathers of the same four groups of children (for a total of 400 fathers).

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (If necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Fall 2009 Parent Web site Survey .....	Mothers of children ages 10-14.	400	1	30/60	200
Fall 2009 Parent Web site Survey .....	Fathers of children ages 10-14.	400	1	30/60	200
Total .....					400

**Seleda Perryman,**

Office of the Secretary, Paperwork Reduction  
Act Reports Clearance Officer.

[FR Doc. E9-8818 Filed 4-16-09; 8:45 am]

BILLING CODE 4150-30-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Meeting of the National Vaccine Advisory Committee**

**AGENCY:** Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice of meeting.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting, to be held by teleconference. This meeting will be equivalent to an in-person meeting and will be open to the public. Pre-registration is required for both public attendance by phone as well as public comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail [nvpo@hhs.gov](mailto:nvpo@hhs.gov).

**DATES:** The Committee will meet by teleconference on May 7, 2009, from 3 p.m. to 4:30 p.m., Eastern Daylight Time (EDT).

**ADDRESSES:** The meeting will occur by teleconference. To attend, please call 1-800-369-1957, passcode "NVAC". International callers must dial 1-630-395-0286.

**FOR FURTHER INFORMATION CONTACT:** Ms. Andrea Krull, Public Health Advisor, National Vaccine Program Office, Department of Health and Human Services, Room 715-H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Phone: (202) 690-5566; Fax: (202) 260-1165; e-mail: [nvpo@hhs.gov](mailto:nvpo@hhs.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. 300aa-1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Director of the National Vaccine Program, on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

This is a special meeting of the NVAC. Discussions will surround the draft recommendations on the draft ISO Scientific Agenda contained in the document titled "NVAC Vaccine Safety Working Group Draft Report" prepared at the request of the Assistant Secretary for Health by the Committee's Vaccine Safety Working Group. The NVAC Vaccine Safety Working Group was initially established to (1) undertake and coordinate a scientific review of the draft Centers for Disease Control and Prevention (CDC) Immunization Safety Office (ISO) Scientific Agenda, and (2) review the current vaccine safety system. The draft report may be found at <http://www.hhs.gov/nvpo/nvac/reports.html>. The draft ISO Scientific Agenda can be found at: [http://www.cdc.gov/vaccinesafety/00\\_pdf/draft\\_agenda\\_recommendations\\_080404.pdf](http://www.cdc.gov/vaccinesafety/00_pdf/draft_agenda_recommendations_080404.pdf) and the addendum at [http://www.cdc.gov/vaccinesafety/00\\_pdf/draft\\_recommendations\\_add\\_080410.pdf](http://www.cdc.gov/vaccinesafety/00_pdf/draft_recommendations_add_080410.pdf). The Committee will review the draft document and discuss the proposed recommendations in preparation for an upcoming vote on these recommendations at the June 2009 NVAC meeting.

For this special meeting, members of the public are invited to attend by teleconference via a toll-free call-in phone number. The call-in number will be operator assisted to provide members of the public the opportunity to provide comments to the Committee. Public participation and ability to comment will be limited to space and time available. Public comment will be limited to no more than three minutes per speaker. Pre-registration is required for both public attendance and comment. Individuals who plan to attend and need special assistance, such as accommodation for hearing impairment or other reasonable accommodations, should notify the designated contact person at least one week prior to the meeting.

Any members of the public who wish to have printed material distributed to NVAC should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business April 30, 2009. A draft agenda and any additional materials will be posted on the NVAC Vaccine Safety Working Group Web site (<http://www.hhs.gov/nvpo/nvac/>) prior to the meeting.

Dated: April 14, 2009.

**Raymond A. Strikas,**

Medical Officer, National Vaccine Program  
Office, U.S. Department of Health and Human  
Services.

[FR Doc. E9-8825 Filed 4-16-09; 8:45 am]

BILLING CODE 4150-44-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Agency for Healthcare Research and Quality****Solicitation for Nominations for Members of the U.S. Preventive Services Task Force (USPSTF)****Correction**

In notice document E9-8040 beginning on page 16408 in the issue of Friday, April 10, 2009, make the following corrections:

1. On page 16409, in the first column, in the fifth line from the top, "indMduals" should read "individuals".

2. On the same page, in the ADDRESSES section, in the eighth and ninth lines, "<http://dreamless.keenspot.com/comic.rss>" should read "[uspstaskforce@ahrq.hhs.gov](mailto:uspstaskforce@ahrq.hhs.gov)".

3. On the same page, in the FOR FURTHER INFORMATION CONTACT section, in the second line, "[uspstaskforce@ahrq.hhs.gov](mailto:uspstaskforce@ahrq.hhs.gov)" should read "[uspstaskforce@ahrq.hhs.gov](mailto:uspstaskforce@ahrq.hhs.gov)".

4. On the same page, in the last full paragraph, in the second line from the bottom, "<http://preventiveservices.ahrq.gov>" should read "<http://preventiveservices.ahrq.gov>".

[FR Doc. Z9-8040 Filed 4-16-09; 8:45 am]

BILLING CODE 1505-01-D

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. FDA-2008-N-0657]

**Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing

that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by May 18, 2009.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-6974, or e-mailed to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). All comments should be identified with the OMB control number 0910-0583. Also include the FDA 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:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed

collection of information to OMB for review and clearance.

**Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use—(OMB Control Number 0910-0583)—Extension**

Since May 29, 1992 (57 FR 22984), when FDA issued a policy statement on foods derived from new plant varieties, FDA has encouraged developers of new plant varieties, including those varieties that are developed through biotechnology, to consult with FDA early in the development process to discuss possible scientific and regulatory issues that might arise. The guidance entitled "Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use" continues to foster early communication by encouraging developers to submit to FDA their evaluation of the food safety of their new protein. Such communication helps to ensure that any potential food safety issues regarding a new protein in

a new plant variety are resolved early in development, prior to any possible inadvertent introduction into the food supply of material from that plant variety.

FDA believes that any food safety concern related to such material entering the food supply would be limited to the potential that a new protein in food from the plant variety could cause an allergic reaction in susceptible individuals or could be a toxin. The guidance describes the procedures for early food safety evaluation of new proteins in new plant varieties, including bioengineered food plants, and the procedures for communicating with FDA about the safety evaluation.

The respondents to this collection of information are developers of new plant varieties intended for food use.

In the **Federal Register** of January 9, 2009 (74 FR 906), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours Per Response	Total Hours
First four data components	20	1	20	4	80
Two other data components	20	1	20	16	320
Total					400

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates the annual total hour burden for this collection of information to be 400 hours. This estimate is based on early food safety evaluations submitted in the past 3 years. FDA's estimate of the time that it would take a respondent to prepare the data components of the early food safety evaluation submission is based on the agency's experience with similar submissions.

Completing an early food safety evaluation for a new protein from a new plant variety is a one-time burden (one evaluation per new protein). Based on its experience over the past 3 years, FDA estimates that approximately 20 developers will choose to complete an early food safety evaluation for their new plant protein. Many developers of novel plants may choose not to submit an evaluation because the field testing of a plant containing a new protein is conducted in such a way (e.g., on such a small scale, or in such isolated

conditions, etc.) that cross-pollination with traditional crops or commingling of plant material is not likely to be an issue. Also, other developers may have previously communicated with FDA about the food safety of a new plant protein, for example, when the same protein was expressed in a different crop.

The early food safety evaluation for new proteins includes six main data components. Four of these data components are easily and quickly obtainable, having to do with the identity and source of the protein. FDA estimates that completing these data components will take about 4 hours per evaluation. In table 1 of this document, row 1 shows that for 20 evaluations, the total burden for these 4 data components is 80 hours.

Two data components ask for original data to be generated. One data component consists of a bioinformatics analysis which can be performed using

publicly available databases. The other data component involves "wet" lab work to assess the new protein's stability and the resistance of the protein to enzymatic degradation using appropriate *in vitro* assays (protein digestibility study). The paperwork burden of these two data components consists of the time it takes the company to assemble the information on these two data components to submit to FDA. We estimate that these two data components will take 16 hours to complete (8 hours for each component). In table 1 of this document, row 2 shows that for 20 evaluations, the total burden for these two data components is 320 hours.

Dated: April 10, 2009.

**Jeffrey Shuren,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. E9-8773 Filed 4-16-09; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**
**Centers for Medicare & Medicaid Services**

[Document Identifier: CMS-8003]

**Agency Information Collection Activities: Submission for OMB Review; Comment Request**

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**1. Type of Information Collection Request:** Revision of a currently approved collection; **Title of Information Collection:** Home and Community Based Waiver Requests and Supporting Regulations in 42 CFR 440.180 and 441.300-310; **Use:** Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost and utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements. CMS has recently revised this data collection tool, as well as the methodology by which the data is collected. **Form Number:** CMS-8003 (OMB# 0938-0449); **Frequency:** Annually; **Affected Public:** State, local or tribal governments; **Number of Respondents:** 49; **Total Annual Responses:** 71; **Total Annual Hours:** 9,059.

(For policy questions regarding this collection contact Mary Sowers at 410-786-6814. 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](mailto: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 *May 18, 2009*.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-6974, E-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

Dated: April 9, 2009.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E9-8778 Filed 4-16-09; 8:45 am]

BILLING CODE 4120-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**
**Centers for Medicare & Medicaid Services**

[Document Identifier: CMS-10165]

**Agency Information Collection Activities: Submission for OMB Review; Comment Request; Retraction**

**ACTION:** Notice, retraction.

**SUMMARY:** On Friday, March 6, 2009 (74 FR 9820), the Centers for Medicare & Medicaid Services (CMS) published a Notice document titled "Agency Information Collection Activities; Proposed Collection; Comment Request". That notice invited public comments on one information collection. Through the publication of this document, CMS is retracting that notice requesting public comment on the Information Collection Requirement titled "Electronic Health Records (EHR) Demonstration Web Enabled Application for Phase II", form number CMS-10165 (OMB #0938-0965).

Dated: April 10, 2009.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E9-8781 Filed 4-16-09; 8:45 am]

BILLING CODE 4120-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**
**Centers for Medicare & Medicaid Services**

[Document Identifier: CMS-10283]

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

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:** New Collection; **Title of Information Collection:** State Plan Amendment Template for Transitional Medical Assistance for Low-Income Families; **Use:** Section 5004 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, amends Section 1925 of the Social Security Act effective July 1, 2009 to offer States two new options for eligibility requirements under Transitional Medical Assistance. To select either or both of these options a State Medicaid Agency will complete the template page and submit it for approval as part of a State plan amendment. The law also imposes new reporting requirements for States which are mentioned on the template. **Form Number:** CMS-10283 (OMB#: 0938-NEW); **Frequency:** Reporting—One-time and Occasionally; **Affected Public:** State, local or tribal government; **Number of Respondents:** 51; **Total Annual Responses:** 51; **Total Annual Hours:** 51. (For policy questions regarding this collection contact Mary Corddry at 410-786-6618. 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

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](mailto: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 June 16, 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 (CMS-10283), Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: April 9, 2009.

Michelle Shortt,

Director, Regulations Development Group,  
Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9-8780 Filed 4-16-09; 8:45 am]

BILLING CODE 4120-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2008-N-0345]

#### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components; and Requirements for Donor Testing, Donor Notification, and "Lookback"

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components; and Requirements for Donor Testing, Donor Notification, and 'Lookback'" has been approved by the Office of Management and Budget

(OMB) under the Paperwork Reduction Act of 1995.

**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:** In the Federal Register of November 12, 2008 (73 FR 66901), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0116. The approval expires on February 29, 2012. A copy of the supporting statement for this information collection is available on the Internet at <http://www.reginfo.gov/public/do/PRAMain>.

Dated: April 10, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-8776 Filed 4-16-09; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2008-N-0272]

#### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**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:** In the Federal Register of September 25, 2008

(73 FR 55516), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0374. The approval expires on December 31, 2011. A copy of the supporting statement for this information collection is available on the Internet at <http://www.reginfo.gov/public/do/PRAMain>.

Dated: April 10, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-8836 Filed 4-16-09; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Interagency Committee on Smoking and Health: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Interagency Committee on Smoking and Health, Department of Health and Human Services, has been renewed for a 2-year period through March 20, 2011.

For information, contact Ms. Dana Shelton, Executive Secretary, Interagency Committee on Smoking and Health, Department of Health and Human Services, 4770 Buford Highway, M/S K50, Atlanta, Georgia 30341, telephone 770-488-5709, or fax 770-488-5767.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 10, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9-8971 Filed 4-16-09; 8:45 am]

BILLING CODE 4163-18-P



**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2009-D-0010]

**Draft Guidance for Industry and Food and Drug Administration Staff; Investigational Device Exemption Guidance for Retinal Prostheses; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Investigational Device Exemption (IDE) Guidance for Retinal Prostheses." This draft guidance document provides recommendations to industry about developing pre-clinical and clinical tests of retinal prosthetic devices for submission to FDA in an IDE application. This draft guidance is not final nor is it in effect at this time.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by July 16, 2009.

**ADDRESSES:** Submit written requests for single copies of the draft guidance document entitled "Investigational Device Exemption (IDE) Guidance for Retinal Prostheses" to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ-220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850.

Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240-276-3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance 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>. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Everette T. Beers, Center for Devices and Radiological Health, HFZ-460, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240-276-4200.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

A retinal prosthesis is a visual prosthetic device, implanted on or beneath the retina or on the outer surface of the globe, that uses electrical stimulation to provide some level of visual stimulation for persons suffering from degenerative retinal conditions. This draft guidance helps device manufacturers submit an IDE to FDA so that they may conduct feasibility and/or pivotal human clinical trials of their retinal prostheses in the United States in order to support a premarket approval application (PMA). The draft guidance provides recommendations about pre-clinical and clinical tests of retinal prosthetic devices. The draft guidance does not apply to prostheses that stimulate the optic nerve or other higher brain areas such as the visual cortex or the lateral geniculate nucleus.

**II. Significance of Guidance**

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized will represent the agency's current thinking on investigational device exemption (IDE) applications for retinal prostheses. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

**III. Electronic Access**

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive "Investigational Device Exemption (IDE) Guidance for Retinal Prostheses," you may either send an e-mail request to [dsmica@fda.hhs.gov](mailto:dsmica@fda.hhs.gov) to receive an electronic copy of the document or send a fax request to 240-276-3151 to receive a hard copy. Please use the document number 1651 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information.

The CDRH Web site may be accessed at <http://www.fda.gov/cdrh>. A search capability for all CDRH guidance documents is available at <http://www.fda.gov/cdrh/guidance.html>. Guidance documents are also available at <http://www.regulations.gov>.

**IV. Paperwork Reduction Act of 1995**

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501-3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910-0078; collections of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910-0130; and collections of information in 21 CFR part 814, subpart E, have been approved under OMB control number 0910-0231.

**V. Comments**

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 2009.

**Jeffrey Shuren,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. E9-8774 Filed 4-16-09; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2009-D-0126]

**Draft Guidance for Industry on the Submission of Summary Bioequivalence Data for Abbreviated New Drug Applications; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for

industry entitled "Submission of Summary Bioequivalence Data for ANDAs." The draft guidance is intended to assist abbreviated new drug application (ANDA) applicants in complying with the new requirements in the final rule on the submission of bioequivalence data published in the *Federal Register* in January 2009. The final rule requires ANDA applicants to submit data from all bioequivalence studies (BE studies) the applicant conducts on a drug product formulation submitted for approval, including both studies that demonstrate and studies that fail to demonstrate that a generic product meets the current bioequivalence criteria. The draft guidance provides recommendations to applicants planning to include BE studies for submission in ANDAs, and is applicable to BE studies conducted during both preapproval and postapproval periods.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by July 16, 2009.

**ADDRESSES:** Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance 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>. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Aida L. Sanchez, Center for Drug Evaluation and Research (HFD-650), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-5847.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In the *Federal Register* of October 29, 2003 (68 FR 61640), FDA published a proposed rule to require an ANDA applicant to submit data from all BE studies that the applicant conducts on a drug product formulation submitted for approval. The agency's final rule amending its bioequivalence regulations

was published in the *Federal Register* on January 16, 2009 (74 FR 2849). All BE studies conducted on the same drug product formulation, including studies that demonstrate and studies that fail to demonstrate that a generic product meets the current bioequivalence criteria, must be submitted to the agency. Information from all BE studies is important to the agency for the following reasons:

- Data contained in any BE study could be important to FDA's assessment of bioequivalence for a specific product; and
- Even when additional BE studies are not critical to the agency's bioequivalence determination for the specific product being reviewed, the data provide valuable scientific information that increases the agency's knowledge and understanding of bioequivalence and generic drug development and promotes further development of science-based bioequivalence policies.

**II. The Draft Guidance**

FDA is announcing the availability of a draft guidance for industry entitled "Submission of Summary Bioequivalence Data for ANDAs." The draft guidance provides recommendations to applicants planning to include BE studies for submission in ANDAs. The draft guidance provides information on the following subjects:

- The types of ANDA submissions covered by the new regulations on BE studies;
  - A recommended format for summary reports of BE studies; and
  - What formulations FDA considers the "same drug product formulation" for different dosage forms based on differences in composition.
- The draft guidance is applicable to BE studies conducted for ANDAs during both preapproval and postapproval periods.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on summary bioequivalence data reports to be submitted in ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

**III. Comments**

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic

comments regarding the draft guidance. 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.

**IV. Paperwork Reduction Act of 1995**

The draft guidance refers to information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collections of information in 21 CFR 314.94(a)(7), 314.96(a)(1), and 314.97 have been approved under OMB control number 0910-0630.

**V. Electronic Access**

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/cder/guidance/index.htm> or <http://www.regulations.gov>.

Dated: April 9, 2009.

**Jeffrey Shuren,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. E9-8833 Filed 4-16-09; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Nursing Research; Notice of Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Nursing Research.

*Date:* May 19–20, 2009.

*Open:* May 19, 2009, 1 p.m. to Adjournment.

*Agenda:* Discussion of Program Policies and Issues.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C, Room 6, Bethesda, MD 20892.

*Closed:* May 20, 2009, 9 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C, Room 6, Bethesda, MD 20892.

*Contact Person:* Mary E. Kerr, FAAN, RN, PhD, Deputy Director, National Institute of Nursing, National Institutes of Health, 31 Center Drive, Room 5B-05, Bethesda, MD 20892-2178. 301/496-8230. [kerrme@mail.nih.gov](mailto:kerrme@mail.nih.gov).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: [http://www.nih.gov/ninr/a\\_advisory.html](http://www.nih.gov/ninr/a_advisory.html), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: April 10, 2009.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9-8899 Filed 4-16-09; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, NIMH/ARMY RFA Project.

*Date:* May 1, 2009.

*Time:* 2 p.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call)

*Contact Person:* David I. Sommers, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892-9606, 301-443-7861, [dsommers@mail.nih.gov](mailto:dsommers@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 10, 2009.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9-8892 Filed 4-16-09; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Biobehavioral Research Awards for Innovative New Sciences.

*Date:* May 14, 2009.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Melrose Hotel, 2430 Pennsylvania Ave., NW, Washington, DC 20037.

*Contact Person:* Megan Libbey, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852-9609. 301-402-6807. [libbeym@mail.nih.gov](mailto:libbeym@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 13, 2009.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9-8891 Filed 4-16-09; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

### Centers for Disease Control and Prevention (CDC)

#### Board of Scientific Counselors, Coordinating Office for Terrorism Preparedness and Emergency Response (BSC, COTPER)

*Correction:* This notice was published in the *Federal Register* on March 20, 2009, Volume 74, Number 53, Page 11958. The time and date, place, status, and matters to be discussed for the aforementioned meeting have been changed to the following:

*Time and Date:* 2 p.m.–4:30 p.m., April 27, 2009.

*Place:* Web Conference. Please contact the BSC Coordinator (see Contact Person for More Information) to obtain further instructions on how to participate by phone and online. Members of the public may also attend this meeting in person at CDC, 1600 Clifton Road, NE., Global Communications Center, Building 19, Room 245/246, Atlanta, Georgia 30333.

*Status:* This Web conference will be open to the public, limited only by the public meeting space available for individuals participating in person. The public meeting room accommodates

approximately 50 people. Visitors to the CDC campus must be processed in accordance with established federal policies and procedures and should pre-register for the meeting as described in Additional Information for Visitors.

**Purpose:** This Board is charged with advising the Secretary, HHS, and the Director, CDC, concerning strategies and goals for the programs and research within COTPER; monitoring the strategic direction and focus of the Divisions; and conducting peer review of scientific programs. For additional information about the BSC, COTPER please visit: <http://emergency.cdc.gov/cotper/science/counselors.asp>.

**Matters to be Discussed:** A briefing on the findings of the workgroup for external peer review of COTPER's fiscal allocation process followed by summary recommendations from the Board. Agenda items are subject to change as priorities dictate.

**Additional Information for Visitors:** All visitors are required to present a valid form of picture identification issued by a state, federal or international government. To expedite the security clearance process for visitors to the CDC Roybal campus, all visitors should pre-register by submitting the following information by e-mail or phone (see Contact Person for More Information) by 12 noon (EDT) on Wednesday, April 13, 2009:

- Full Name,
- Organizational Affiliation,
- Complete Mailing Address,
- Citizenship, and
- Phone Number or E-mail Address

For foreign nationals or non-US citizens, pre-approval is required. Please contact the BSC Coordinator (see Contact Person for More Information) in advance of the posted pre-registration deadline for additional security requirements that must be met.

**Contact Person for More Information:** Matthew Jennings, BSC Coordinator, COTPER, CDC, 1600 Clifton Rd NE., Mailstop D-44, Atlanta, GA 30333, Telephone: (404) 639-7357; Facsimile: (404) 639-7977; E-mail: [COTPER.BSC.Questions@cdc.gov](mailto:COTPER.BSC.Questions@cdc.gov).

The Director, Management Analysis and Service Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and Agency for Toxic Substances and Disease Registry.

Dated: April 4, 2009.

**Elaine L. Baker,**

*Director, Management Analysis and Service Office, Centers for Disease Control and Prevention.*

[FR Doc. E9-8858 Filed 4-16-09; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

[Docket No. DHS-2009-0019]

### DHS Data Privacy and Integrity Advisory Committee

**AGENCY:** Privacy Office, DHS.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The DHS Data Privacy and Integrity Advisory Committee will meet on May 14, 2009, in Washington, DC. The meeting will be open to the public.

**DATES:** The DHS Data Privacy and Integrity Advisory Committee will meet on Thursday, May 14, 2009, from 9 a.m. to 12 p.m. and from 2 p.m. to 4 p.m. Please note that the meeting may end early if the Committee has completed its business.

**ADDRESSES:** The meeting will be held in the Capitol Ballroom of the JW Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC 20004 (Metro Center Station). Written materials, requests to make oral presentations, and requests to have a copy of your materials distributed to each member of the Committee prior to the meeting should be sent to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by May 7, 2009. Persons who wish to submit comments and who are not able to attend or speak at the meeting may submit comments at any time. All submissions must include the Docket Number (DHS-2009-0019) and may be submitted by any one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** [PrivacyCommittee@dhs.gov](mailto:PrivacyCommittee@dhs.gov). Include the docket number (DHS-2009-0019) in the subject line of the message.
- **Fax:** (703) 483-2999.
- **Mail:** Martha K. Landesberg, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528.

**Instructions:** All submissions must include the words "Department of Homeland Security Data Privacy and

Integrity Advisory Committee" and the Docket Number (DHS-2009-0019). Comments will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to <http://www.regulations.gov>.

### FOR FURTHER INFORMATION CONTACT:

Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235-0780, by fax (703) 235-0442, or by e-mail to [PrivacyCommittee@dhs.gov](mailto:PrivacyCommittee@dhs.gov).

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92-463). During the meeting, the Chief Privacy Officer will provide the DHS Data Privacy and Integrity Advisory Committee an update on the activities of the DHS Privacy Office. The Committee will hear presentations on the US VISIT and e-Verify programs. The subcommittees will update the Committee on their current work. The Committee will also deliberate and vote on a draft white paper on DHS Information Sharing and Access Agreements. The agenda will be posted in advance of the meeting on the Committee's Web site at <http://www.dhs.gov/privacy>. Please note that the meeting may end early if all business is completed.

At the discretion of the Chair, members of the public may make brief (*i.e.*, no more than three minutes) oral presentations from 3:30 p.m. to 4 p.m. If you would like to make an oral presentation at the meeting, please register in advance or sign up on the day of the meeting. If you wish to provide written materials to be distributed to each member of the Committee in advance of the meeting, please submit them, preferably in electronic form to facilitate distribution, to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by May 7, 2009.

### Information on Services for Individuals With Disabilities

For information on services for individuals with disabilities or to request special assistance, contact Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

Dated: April 13, 2009.

**Mary Ellen Callahan,**  
 Chief Privacy Officer, Department of  
 Homeland Security.  
 [FR Doc. E9-8874 Filed 4-16-09; 8:45 am]  
 BILLING CODE 9110-9L-P

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

[Docket No. DHS-2009-0020]

### Public Workshop: Government 2.0: Privacy and Best Practices

**AGENCY:** Office of the Secretary, DHS.  
**ACTION:** Notice announcing public  
 workshop.

**SUMMARY:** The Department of Homeland  
 Security Privacy Office will host a  
 public workshop, *Government 2.0:  
 Privacy and Best Practices*.

**DATES:** The two-day workshop will be  
 held on June 22, 2009, from 8:30 a.m.  
 to 4:30 p.m., and on June 23, 2009, from  
 8:30 a.m. to 12:30 p.m. Written  
 comments should be received on or  
 before June 1, 2009.

**ADDRESSES:** The workshop will be held  
 in the Atrium Ballroom, Washington  
 Court Hotel, 525 New Jersey Avenue,  
 NW, Washington, DC 20001. Submit  
 comments to the Federal eRulemaking  
 Portal (<http://www.regulations.gov>) by  
 following the instructions provided  
 there, or send your comments by e-mail  
 to [privacyworkshop@dhs.gov](mailto:privacyworkshop@dhs.gov), by fax to  
 (703) 483-2999, or by U.S. mail to  
 Martha K. Landesberg, Associate  
 Director for Privacy Policy and  
 Education, Privacy Office, Department  
 of Homeland Security, Washington, DC  
 20528. All comments must include the  
 words "Government 2.0 Workshop" and  
 the Docket Number (DHS-2009-0020).  
 To register for the workshop, please  
 send an e-mail to  
[privacyworkshop@dhs.gov](mailto:privacyworkshop@dhs.gov) with  
 "Government 2.0 Workshop  
 Registration" in the subject line, and  
 your name and organizational  
 affiliation, if any, in the body of the e-  
 mail. Alternatively, you may call 703-  
 235-0780 to register and provide this  
 information.

**FOR FURTHER INFORMATION CONTACT:**  
 Martha K. Landesberg or Toby Milgrom  
 Levin, DHS Privacy Office, Department  
 of Homeland Security, Washington, DC  
 20528; by telephone 703-235-0780; by  
 facsimile 703-235-0442; or by e-mail to  
[privacyworkshop@dhs.gov](mailto:privacyworkshop@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The  
 Department of Homeland Security  
 (DHS) Privacy Office is holding a public

workshop to bring together leading  
 academic, private-sector, and public-  
 sector experts to discuss the privacy  
 issues posed by Government use of  
 social media. The purpose of the  
 workshop is to help Federal agencies to  
 engage the public through social media  
 in a privacy-protective manner and to  
 explore best practices that agencies can  
 use to implement President Obama's  
 January 21, 2009, Transparency and  
 Open Government Memorandum. The  
 workshop will consist of a series of  
 presentations and panel discussions that  
 include the broad range of stakeholder  
 perspectives. Panelists will discuss such  
 issues as: The benefits of social media  
 to expand transparency and  
 participation in Government; the  
 privacy and related legal issues raised  
 by Government use of social media; and  
 how Government can best harness these  
 new technologies while protecting  
 privacy.

Workshop attendees will have an  
 opportunity to ask questions after each  
 panel.

The workshop is open to the public,  
 and no fee is required for attendance.  
 An agenda and logistical information  
 will be posted on the <http://www.dhs.gov/privacy> Web page for this  
 workshop shortly before the event. A  
 written transcript will be posted on the  
 Web page following the event.

**Topics for Comment:** To develop a  
 comprehensive record regarding  
 Government use of social media, the  
 DHS Privacy Office also invites  
 interested parties to submit written  
 comments as described below.  
 Comments should be received on or  
 before June 1, 2009, and should be as  
 specific as possible. The Privacy Office  
 welcomes comments on any issue of  
 fact, law, or policy related to the privacy  
 issues posed by Government use of  
 social media. The Privacy Office is  
 particularly interested in receiving  
 comments on the following topics:

1. How is Government currently using  
 social media?
2. What are the benefits, to the public  
 and to Government, of Government's  
 use of social media?
3. What are the risks, to the public  
 and to Government, of Government's  
 use of social media?
4. What operational issues are raised  
 by Government use of social media?
5. What privacy issues are raised by  
 Government use of social media? What  
 are the privacy impacts of Government  
 use of social media? Are there privacy  
 issues that are unique to Government  
 use of social media?
6. What legal issues are raised by  
 Government use of social media? Are

there legal issues that are unique to  
 Government use of social media?

7. What security issues are raised by  
 Government use of social media? Are  
 there security issues that are unique to  
 Government use of social media?

8. What should be the elements of  
 privacy best practices for Government  
 use of social media? The Privacy Office  
 requests that, where possible, comments  
 include references to literature,  
 technical standards and/or other  
 resources that would support  
 implementation of the best practices  
 identified.

Written comments must include the  
 words "Government 2.0 Workshop" and  
 the Docket Number (DHS-2009-0020),  
 and may be submitted by any one of the  
 following methods:

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

- **E-mail:** [privacyworkshop@dhs.gov](mailto:privacyworkshop@dhs.gov).  
 Include "Government 2.0 Workshop  
 Comment" and the Docket Number  
 (DHS-2009-0020) in the subject line of  
 the message.

- **Fax:** (703) 483-2999.
- **Mail:** Martha K. Landesberg,  
 Associate Director for Privacy Policy  
 and Education, Privacy Office,  
 Department of Homeland Security,  
 Washington, DC 20528.

All written comments received will be  
 posted without alteration on the  
<http://www.dhs.gov/privacy> Web page  
 for this workshop, including any  
 personal contact information provided.

**Registration:** In order to assist us in  
 planning for the workshop, we ask that  
 attendees register in advance. To  
 register, please send an e-mail to  
[privacyworkshop@dhs.gov](mailto:privacyworkshop@dhs.gov) with  
 "Government 2.0 Workshop  
 Registration" in the subject line, and  
 your name and organizational  
 affiliation, if any, in the body of the e-  
 mail. Alternatively, you may call 703-  
 235-0780 to register and to provide the  
 DHS Privacy Office with your name and  
 organizational affiliation, if any. The  
 Privacy Office will use this information  
 only for purposes of planning this  
 workshop and to contact you in the  
 event of any logistical changes. An  
 agenda and logistical information will  
 be posted on the [http://www.dhs.gov/](http://www.dhs.gov/privacy)  
[privacy](http://www.dhs.gov/privacy) Web page for this workshop  
 shortly before the event. A written  
 transcript will be posted on the Web  
 page following the event.

**Special Assistance:** Persons with  
 disabilities who require special  
 assistance should indicate this in their  
 registration request and are encouraged  
 to identify anticipated special needs as  
 early as possible.



Dated: April 13, 2009.

Mary Ellen Callahan,  
Chief Privacy Officer, Department of  
Homeland Security.  
[FR Doc. E9-8868 Filed 4-16-09; 8:45 am]  
BILLING CODE 9110-9L-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5280-N-14]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant  
Secretary for Community Planning and  
Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies  
unutilized, underutilized, excess, and  
surplus Federal property reviewed by  
HUD for suitability for possible use to  
assist the homeless.

**DATES:** *Effective Date:* April 17, 2009.

**FOR FURTHER INFORMATION CONTACT:**  
Kathy Ezzell, Department of Housing  
and Urban Development, 451 Seventh  
Street SW., Room 7262, Washington, DC  
20410; telephone (202) 708-1234; TTY  
number for the hearing- and speech-  
impaired (202) 708-2565, (these  
telephone numbers are not toll-free), or  
call the toll-free Title V information line  
at 800-927-7588.

**SUPPLEMENTARY INFORMATION:** In  
accordance with the December 12, 1988  
court order in *National Coalition for the  
Homeless v. Veterans Administration*,  
No. 88-2503-OG (D.D.C.), HUD  
publishes a Notice, on a weekly basis,  
identifying unutilized, underutilized,  
excess and surplus Federal buildings  
and real property that HUD has  
reviewed for suitability for use to assist  
the homeless. Today's Notice is for the  
purpose of announcing that no  
additional properties have been  
determined suitable or unsuitable this  
week.

Dated: April 9, 2009.

Mark R. Johnston,  
Deputy Assistant Secretary for Special Needs.  
[FR Doc. E9-8509 Filed 4-16-09; 8:45 am]  
BILLING CODE 4210-67-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-ES-2008-N0208; 10120-1113-  
0000-C2]

### Endangered and Threatened Wildlife and Plants; Revised Recovery Plan for the 'Alala (*Corvus hawaiiensis*)

**AGENCY:** Fish and Wildlife Service,  
Interior.

**ACTION:** Notice of document availability;  
revised recovery plan.

**SUMMARY:** We, the U.S. Fish and  
Wildlife Service, announce the  
availability of the Revised Recovery  
Plan for the Hawaiian crow or 'Alala  
(*Corvus hawaiiensis*). This species,  
found only on the island of Hawai'i, was  
Federally listed as endangered in 1967.

**ADDRESSES:** Copies of the recovery plan  
are available by request from the U.S.  
Fish and Wildlife Service, Pacific  
Islands Fish and Wildlife Office, 300  
Ala Moana Boulevard, Room 3-122, Box  
50088, Honolulu, HI 96850 (phone:  
(808) 792-9400). An electronic copy of  
the recovery plan is also available at  
[http://endangered.fws.gov/recovery/  
index.html#plans](http://endangered.fws.gov/recovery/index.html#plans). Printed copies of the  
recovery plan will be available for  
distribution 4 to 6 weeks after the  
publication date of this notice.

**FOR FURTHER INFORMATION CONTACT:** Jeff  
Burgett, Fish and Wildlife Biologist, at  
the above Pacific Islands Fish and  
Wildlife Office address and phone.

#### SUPPLEMENTARY INFORMATION:

##### Background

Recovery of endangered or threatened  
animals and plants is a primary goal of  
the Endangered Species Act (Act) (16  
U.S.C. 1531 *et seq.*) and our endangered  
species program. Recovery means  
improvement of the status of listed  
species to the point at which listing is  
no longer required under the criteria in  
section 4(a)(1) of the Act.

The Act requires the development of  
recovery plans for endangered or  
threatened species unless such a plan  
would not promote the conservation of  
the species. Recovery plans help guide  
the recovery effort by describing actions  
considered necessary for the  
conservation of the species, and  
estimating time and cost for  
implementing the measures needed for  
recovery. We originally completed a  
recovery plan for the 'Alala in 1982, but  
the recommendations contained in that  
plan are outdated given the species'  
current status.

Section 4(f) of the Act requires that  
we provide public notice and an

opportunity for public review and  
comment during recovery plan  
development. In fulfillment of this  
requirement, we made the draft revised  
recovery plan for the 'Alala (*Corvus  
hawaiiensis*) available for public  
comment from December 18, 2003  
through February 20, 2004 (December  
18, 2003, 68 FR 70527; December 22,  
2003, 68 FR 71128). As we prepared this  
final revised recovery plan, we  
considered information provided during  
the public comment period. We also  
summarized this information in an  
appendix to the plan.

The 'Alala or Hawaiian crow has been  
federally listed as endangered since  
1967 (35 FR 16047) and is also listed as  
endangered by the State of Hawai'i. The  
'Alala is endemic to the island of  
Hawai'i. 'Alala were last observed in the  
wild in 2002, and we now believe the  
species to be extirpated from the wild.  
In January 2008, there were 56 'Alala,  
representing the entire known  
population of the species, in captivity at  
the Keauhou and Maui Bird  
Conservation Centers, on Hawai'i and  
Maui islands, respectively.

Historically, the 'Alala was restricted  
to the dry and mesic forests in the  
western and southern portions of the  
island of Hawai'i. The species is  
associated with 'ohi'a-koa (*Metrosideros  
polymorpha*) and 'ohi'a-koa-koa (*Acacia  
koa*) forests with an understory of native  
fruit-bearing trees and shrubs. Current  
threats include predation by nonnative  
mammals and the endangered 'Io or  
Hawaiian hawk (*Buteo solitarius*),  
introduced diseases, and habitat loss  
and fragmentation. Inbreeding  
depression may be reducing the  
reproductive success of the captive  
population, and loss of wild behaviors  
in captivity might reduce survivorship  
of captive-raised birds released into the  
wild. Recovery actions in this revised  
plan are designed to address threats to  
the 'Alala to achieve the recovery  
objectives of downlisting to threatened  
status and then eventually delisting  
(removing from the list of endangered  
and threatened species).

Because the 'Alala exists only as a  
small population in captivity, the  
revised recovery plan emphasizes  
recovery actions for the next 5 years as  
well as presenting an overall strategy for  
long-term recovery. Given that recovery  
will be based on releases of captive-bred  
'Alala to the wild, and much of the data  
necessary to determine the population  
size and parameters needed for recovery  
of the species do not exist at this time,  
it is only possible to establish general  
recovery criteria. We will consider the  
'Alala to be recovered when the genetic  
diversity that was present in the 'Alala

population in 2003 has been preserved to the maximum extent possible, the population as a whole is demographically stable, two or more subpopulations exist in the wild, persistence of wild subpopulations does not require additions from a captive flock, and peer-reviewed population models yield a probability of extinction of less than 5 percent within 100 years. Recovery will also require that threats to the species within suitable habitat have been managed so that 'Alala subpopulations in the wild are growing or stable in landscapes that include areas managed for native biodiversity.

The following recovery actions address key threats to the species as well as the funding and public support necessary to recover the 'Alalā. First, we and our partners must manage the population of 'Alalā, including both captive and future reintroduced birds, to minimize loss of genetic diversity. Second, we must identify and manage suitable habitat to reduce or remove threats, including disease and predators, and we must halt additional habitat loss or degradation and, if possible, reverse them. Third, we must establish new populations in managed suitable habitat. Fourth, we must garner public involvement and support to facilitate captive propagation of 'Alala and other recovery activities, including habitat management and 'Alala reintroduction. Fifth, the recovery program must use focused research and an adaptive management strategy to increase the effectiveness of captive propagation, release methods, and habitat management, and to minimize the time to recovery. Some of these recovery actions are ongoing or were initiated prior to the publication of this revised plan.

**Authority:** The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 17, 2009.

David J. Wesley,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E9-8898 Filed 4-16-09; 8:45 am]

BILLING CODE

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R3-ES-2009-N0083]; [30120-1113-0000-F6]

### Endangered and Threatened Wildlife and Plants; Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

**DATES:** We must receive any written comments on or before May 18, 2009.

**ADDRESSES:** Send written comments by electronic mail to [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov) or by U.S. mail to the Regional Director, Attn: Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, MN 55111-4056.

**FOR FURTHER INFORMATION CONTACT:** Peter Fasbender, (612) 713-5343.

#### SUPPLEMENTARY INFORMATION:

##### Background

We invite public comment on the following permit applications for certain activities with endangered species authorized by section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) and our regulations governing the taking of endangered species in the Code of Federal Regulations at 50 CFR part 17. Submit your written data, comments, or request for a copy of the complete application to one of the addresses shown in **ADDRESSES**. When submitting comments, please refer to the appropriate permit application number.

##### Permit Applications

**Permit Application Number:** TE212393.  
**Applicant:** Kenneth Mierzwa, Eureka, California.

The applicant requests a permit to take (capture and release) Hines' emerald dragonfly (*Somatochlora hineana*) adults and larvae in Will County, Illinois, for the purpose of population monitoring and recovery of the species. Proposed activities are for the purpose of enhancement of survival of the species in the wild.

**Permit Application Number:** TE212417.  
**Applicant:** Central Lake Superior Land Conservancy, Marquette, Michigan.

The applicant requests a permit to take (harass, salvage) piping plover (*Charadrius melodus*) along the Great Lakes shoreline in the proximity of Grand Marais and Gulliver, Michigan. Take is in the form of nest monitoring and protection activities and abandoned egg salvage for the purpose of

cooperating with the U.S. Fish and Wildlife Service on captive breeding and release. Proposed activities are aimed at enhancement of the survival of the species in the wild.

**Permit Application Number:** TE212423.  
**Applicant:** Jessica Brzyski, Cincinnati, Ohio.

The applicant requests a permit renewal to take (collect) federally threatened Virginia Spirea (*Spirea virginiana*) on Federal lands in Kentucky, West Virginia, and Tennessee. Proposed collection of leaf tissue and seeds for recovery research is for the enhancement of propagation and survival of the species in the wild.

**Permit Application Number:** TE212420.  
**Applicant:** John Vucetich, Houghton, Michigan.

The applicant requests a permit renewal to take (capture and release; salvage) gray wolf (*Canis lupus*) within Isle Royale National Park, Michigan, for recovery research aimed at enhancement of the survival of the species in the wild.

**Permit Application Number:** TE212425.  
**Applicant:** Ecology & Environment, Inc., Lancaster, New York.

The applicant requests a permit to take (capture and release) the American burying beetle (*Nicrophorus americanus*) throughout the range of the species (Rhode Island, Oklahoma, Arkansas, Nebraska, and Ohio) to document presence or absence of the species. Activities are proposed to enable wind energy project proponents to avoid impacts to the species in the interest of enhancing survival of the species in the wild.

**Permit Application Number:** TE212427.  
**Applicant:** Ecology & Environment, Inc., Lancaster, New York.

The applicant requests a permit to take (capture and release) Indiana bats (*Myotis sodalis*), gray bats (*Myotis grisescens*) and Ozark big-eared bat (*Corynorhinus townsendii ingens*) throughout Ohio, Missouri, Arkansas, Oklahoma, Indiana, and Illinois. The activities proposed under this permit application include presence or absence surveys, studies to document habitat use, population monitoring, and evaluation of potential impacts of proposed projects. Activities are proposed for enhancement of the survival of the species in the wild.

**Permit Application Number:** TE212430.  
**Applicant:** Dr. Francesca Cuthbert,

University of Minnesota, St. Paul, Minnesota.  
The applicant requests a permit renewal to take piping plover in Michigan and Wisconsin. The research entails capture and marking of piping plovers, erecting nesting enclosures to

improve nesting success, and salvaging eggs and nestlings to enhance the survival of the species in the wild.  
**Permit Application Number:** TE182430.  
**Applicant:** Nicholas Owens, Oak Brook, Illinois.

The applicant requests a permit amendment to take (capture and release) federally listed mussels within the State of Iowa. Species included on Mr. Owens' existing permit are: Fanshell (*Cyprogenia stegaria*), pink mucket (*Lampsilis abrupta*), Higgins' Eye (*Lampsilis higginsii*), orangefoot pimpleback (*Plethobasus cooperianus*), clubshell (*Pleurobema clava*), fat pocketbook (*Potamilus capax*), rough pigtoe (*Pleurobema plenum*), and Northern riffleshell (*Epioblasma torulosa rangiana*). Proposed activities are for enhancement of the survival of the species in the wild.

**Permit Application Number:** TE152002.  
**Applicant:** Stantec Consulting Services, Louisville, Kentucky.

The applicant requests a permit amendment to take (capture and release) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*) and bog turtle (*Clemmys muhlenbergii*) to the list of approved species on their existing fish and wildlife permit. Activities for the Carolina northern flying squirrel are proposed for Tennessee, North Carolina, and Virginia. Activities for the bog turtle are proposed for Connecticut, Delaware, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, and Virginia. Proposed surveys are aimed at enhancement of the survival of the species in the wild.

**Permit Application Number:** TE212435.  
**Applicant:** David Zanatta, Central Michigan University, Mount Pleasant, Michigan.

The applicant requests a permit to take (capture and release) Northern riffleshell and Clubshell in the Black River watershed and St. Joseph River watershed in the State of Michigan. Proposed surveys to determine species presence and abundance are aimed at enhancement of the survival of the species in the wild.

**Permit Application Number:** TE023664.  
**Applicant:** Environmental Solutions & Innovations, Inc., Cincinnati, Ohio.

The applicant requests a permit amendment to authorize personnel to work under the authority of their existing permit for federally listed bat species. The proposed amendment is for the enhancement of survival of the species in the wild.

**Permit Application Number:** TE212440.  
**Applicant:** Bat Conservation and Management, Carlisle, Pennsylvania.

The applicant requests a permit to take (capture and release) Indiana bats and gray bats within Iowa, Illinois, Indiana, Missouri and Ohio. Proposed activities include presence/absence surveys, studies to document habitat use, and population monitoring in the interest of recovery and enhancement of the survival of the species in the wild.

**Permit Application Number:** TE842313.

**Applicant:** Dr. Everett D. Cashatt, Illinois State Museum, Springfield, Illinois.

The applicant requests a permit amendment to take (collect) Hines' emerald dragonfly in Missouri and to include additional personnel in activities authorized on his existing fish and wildlife permit. The proposed activities are for scientific research in the interest of species recovery.

#### Public Comments

We solicit public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive are available for public inspection, by appointment, during normal business hours at the street address shown in the ADDRESSES section. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the activities proposed in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM6 Appendix 1, 1.4C(1)).

Dated: April 10, 2009.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Region 3.

[FR Doc. E9-8819 Filed 4-16-09; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Repair Kalaupapa Dock Structures To Ensure Continued Barge Service; Kalaupapa National Historical Park, Hawaii; Notice of Intent To Prepare Environmental Impact Statement

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service will prepare an Environmental Impact Statement (EIS) for all repairs of Kalaupapa dock structures as may be necessary to ensure continued barge service for Kalaupapa National Historical Park (NHP) and community residents. Kalaupapa NHP was established on the island of Molokai in 1980 in recognition of the significant role of this extremely isolated area in the development of treatments and care for persons with Hansen's disease. The proposed project may include stabilization and repair of the failing bulkhead wall and toe structure located adjacent to the pier; repair and reconstruction of the severely cracked and deteriorating concrete pier; replacement of mooring dolphins to used to secure barges; and dredging and potentially blasting to widen the berthing channel. Timely repair of the structures is needed to avoid any disruption of incoming barge service upon which Kalaupapa NHP and community residents depend for their livelihood (as well as regular outgoing service required for the park's recycling program and other activities).

The National Park Service (NPS) previously conducted public scoping during spring and summer 2008, and began preparing an environmental assessment. A community meeting was conducted in March, 2008. Oral and written comments were obtained from the Kalaupapa patient community and park neighbors: state, county, and federal agencies, including Hawaii Department of Health, the State Historic Preservation Officer, and U.S. Fish and Wildlife Service; interested organizations; and Native Hawaiian groups. Based on information obtained, particularly concerning the degree to which potential impacts could adversely affect several species protected under the Endangered Species Act, the NPS has determined that preparation of an EIS is warranted. Moreover the dock and harbor setting are deemed to be potential contributing elements to the National Historic Landmark status of Kalaupapa Leprosy Settlement made famous by Father Damien.

**DATES:** All written comments must be postmarked or transmitted not later than June 8, 2009.

**FOR FURTHER INFORMATION CONTACT:** Current information about proposed repairs to Kalaupapa dock or design of appurtenant structures will be available from Superintendent Steve Prokop, Kalaupapa National Historical Park, P.O. Box 2222, Kalaupapa, HI 96742 (808) 567-6802 (or at <http://parkplanning.nps.gov/kala>).

**Scoping Process:** The NPS will formally conclude the public scoping phase (needed to inform preparation of a Draft EIS) following receipt of any and all comments as noted above. All previously submitted comments are documented in the administrative record; only new issues and concerns need to be submitted at this time. During this final scoping period, public meetings will also be conducted—the dates, times, and locations will be announced via local and regional press media and on the project website (noted above). Confirmed details may also be obtained by contacting the Superintendent of Kalaupapa NHP.

All new relevant environmental information, or additional comments on any issues that may be associated with the proposed project, should be submitted by mail to the attention of the Superintendent (address as noted above, or you may submit comments electronically at <http://parkplanning.nps.gov/kala>). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Decision Process:** All information and comments received will be carefully considered in preparing a Draft EIS, availability of which will be similarly announced in the **Federal Register**. Following release of the Draft EIS for public and agency review, a Final EIS will be prepared. As a delegated EIS, the official responsible for approval of any dock repair project is the Regional Director, Pacific West Region, National Park Service. Notice of approval of a Record of Decision will also be published in the **Federal Register**. The official responsible for implementation of the approved project will be the Superintendent, Kalaupapa National Historical Park.

Dated: December 30, 2008.

**Jonathan B. Jarvis,**  
Regional Director, Pacific West Region.

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

[FR Doc. E9-8623 Filed 4-16-09; 8:45 am]

BILLING CODE 4312-GJ-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2009-N0060]; [1112-0000-81420-F2]

#### Hossain Ahmadi Low-Effect Habitat Conservation Plan, City of San Jose, Santa Clara County, CA

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability: proposed low-effect habitat conservation plan; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from Hossain Ahmadi (applicant) for a 3-year incidental take permit for five species under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of three listed animals, one listed plant, and one non-listed plant. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the applicant’s low-effect habitat conservation plan (plan). We request comments on the applicant’s application and plan, and the preliminary determination that the plan qualifies as a “low-effect” habitat conservation plan, eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our environmental action statement (EAS), also available for public review.

**DATES:** We must receive written comments on or before May 18, 2009.

**ADDRESSES:** Please address written comments to Mike Thomas, Conservation Planning Branch, U. S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Mike Thomas, or Eric Tattersall, Division Chief, Conservation Planning Branch, at the address shown above or at 916-414-6600 (telephone).

**SUPPLEMENTARY INFORMATION:**

### Availability of Documents

You may obtain copies of the permit application, plan, and EAS from the individuals in **FOR FURTHER INFORMATION CONTACT**. Copies of these documents are also available for public inspection, by appointment, during regular business hours, at the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Background Information

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing Federal regulations prohibit the “take” of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct. However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Although take of listed plant species is not prohibited under the Act, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The applicant seeks an incident take permit for covered activities within 9.2 acres (ac) (3.72 hectares (ha)) of grassland the applicant owns in Santa Clara County, California. The applicant is requesting permits for take of three animal species federally listed as threatened: Bay checkerspot butterfly (*Euphydryas editha bayensis*), California red-legged frog (*Rana aurora draytonii*),



and California tiger salamander (*Ambystoma californiense*); one plant species federally listed as endangered: Santa Clara Valley dudleya (*Dudleya setchellii*). The plan also includes one non-listed plant species, the most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*). The plan does not include any nonlisted animal species. Collectively, these species are referred to as "covered species" in the plan.

Covered activities include the following: Grading and ground leveling; vegetation removal and planting; soil compaction; building construction; and use of heavy equipment (including, but not limited to, bulldozers, cement trucks, water trucks, and backhoes); erosion control structures (such as silt fencing and barriers); dust control (such as watering surface soils); construction of driveways; trenching; installation of utilities and irrigation systems; and associated landscaping.

The applicant proposes to avoid, minimize, and mitigate the effects to the covered species associated with the covered activities by fully implementing the plan. Minimization measures will include, but are not limited to, an employee education program; biological monitoring during construction and earthmoving; a storm water, erosion, and dust control plan; and salvage of individual Santa Clara Valley dudleya prior to construction. General minimization measures will include: Limiting staging and work areas to the project site only; regular removal of all foods and food-related trash every three days; prohibiting pets from the project site during construction; restricting ground disturbance to the period of July 1 through November 30 (generally the dry season), unless we authorize otherwise; and maintenance of all equipment to avoid fluid leaks.

#### Alternatives

Our proposed action is approving the applicant's plan and issuance of an incidental take permit for the applicant's covered activities. As required by the Act, the applicant's plan considers alternatives to the take under the proposed action. The plan considers the environmental consequences of one alternative to the proposed action, the No Action Alternative. Under the No Action Alternative, we would not issue a permit; the applicant would not build the proposed single-family residence; the project area would continue to experience illegal off-road vehicle use, illegal trash dumping, and trespassing; and no take would occur for the construction of the residence and its associated structures.

Under the proposed action alternative, we would issue an incidental take permit for the applicant's proposed project, which includes the activities described above. The proposed action alternative would result in permanent loss of 1.33 ac (0.54 ha) of grassland habitat for the Bay checkerspot butterfly, California tiger salamander, California red-legged frog, Santa Clara Valley dudleya, and most beautiful jewelflower. To mitigate for these effects, the applicant proposes to protect, enhance, and manage in perpetuity 6.8 ac (2.76 ha) of on-site grassland.

#### National Environmental Policy Act

As described in our EAS, we have made the preliminary determination that approval of the proposed plan and issuance of the permit would qualify as a categorical exclusion under NEPA (42 U.S.C. 4321 *et seq.*), as provided by Federal regulations (40 CFR 1500, 5(k), 1507.3(b)(2), 1508.4) and the Department of the Interior Manual (516 DM 2 and 516 DM 8). Our EAS found that the proposed plan qualifies as a "low-effect" habitat conservation plan, as defined by our Habitat Conservation Planning Handbook (November 1996). Determination of low-effect habitat conservation plans is based on the following three criteria: (1) Implementation of the proposed plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. Based upon the preliminary determinations in the EAS, we do not intend to prepare further NEPA documentation. We will consider public comments when making the final determination on whether to prepare an additional NEPA document on the proposed action.

#### Public Review

We provide this notice pursuant to section 10(c) of the Act and the NEPA public-involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We will evaluate the permit application, including the plan, and comments we receive to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a

permit to the applicant for the incidental take of the Bay checkerspot butterfly, California tiger salamander, California red-legged frog, Santa Clara Valley dudleya, and most beautiful jewelflower from the implementation of the covered activities described in the plan, or from mitigation conducted as part of this plan. We will make the final permit decision no sooner than 30 days after the date of this notice.

Dated: April 13, 2009.

#### Jan Knight,

Acting Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. E9-8816 Filed 4-16-09; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before April 4, 2009. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW, 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW, 8th floor, Washington DC 20005; or by fax, 202-371-6447. Written or faxed comments should be submitted by May 4, 2009.

#### J. Paul Loether,

Chief, National Register of Historic Places/  
National Historic Landmarks Program.

## COLORADO

### Weld County

Von Trotha-Firestien Farm at Bracewell,  
(Historic Farms and Ranches of Weld  
County MPS) Address Restricted, Greeley,  
09000291.

## IDAHO

### Blaine County

Chase, Eben S. and Elizabeth S., House, 203  
E. Bullion St., Hailey, 09000292.

### Latah County

Nordby Farmstead, (Agricultural Properties  
of Latah County, Idaho) 1301 Old Highway  
95, Genesee, 09000293.  
Snow, Arthur, House, 2949 Clyde Rd.,  
Moscow, 09000294.



**ILLINOIS****Carroll County**

Mississippi Palisades State Park, (Illinois State Park Facilities Constructed by the Civilian Conservation Corps, 1933-1942) 16327A IL 84, Savanna, 09000295.

**Sangamon County**

Route 66 South of Lake Springfield, (Route 66 through Illinois MPS) Olde Rt. 66/Olde Carriage Way, Springfield, 09000296.

**IOWA****Hardin County**

Eldora Downtown Historic District, (Iowa's Main Street Commercial Architecture MPS) Approximately ten blocks in downtown Eldora around the courthouse square, Eldora, 09000297.

**Union County**

Iowana Hotel, 203 W. Montgomery St., Creston, 09000298.

**MASSACHUSETTS****Essex County**

Blakeley Building, 475-479 Essex St., Lawrence, 09000299.

**MISSOURI****Cape Girardeau County**

Jefferson School, 731 Jefferson Ave., Cape Girardeau, 09000300.

**Cole County**

Stephens, Hugh and Bessie, House, 601 Jackson St., Jefferson City, 09000301.

**Newton County**

Bonnie & Clyde Garage Apartment, 3347½ Oak Ridge Dr., Joplin, 09000302.

**NEW YORK****Kings County**

Industrial Complex at 221 McKibbin Street, 221 McKibbin St., Brooklyn, 09000303.

**New York County**

240 Central Park South, 240 Central Park S., New York, 09000304.

**Suffolk County**

Cauldwell, William, House, 51 Peconic Ave., Noyac, 09000305.

**TEXAS****Dallas County**

Fidelity Union Life Insurance Building, 1511 Bryan and 1507 Pacific Ave., Dallas, 09000306.

**Matagorda County**

Bay City Post Office, 2100 Ave. F, Bay City, 09000307.

**Williamson County**

Zidell House, 2015 W. Lake Dr., Taylor, 09000308.

**WISCONSIN****Jefferson County**

Curtis, David W. and Jane, House, 213 E. Sherman Ave., Fort Atkinson, 09000309.

**Wood County**

Soo Line Steam Locomotive 2442, circa 1800 S. Central Ave., Marshfield, 09000310.

Request for removal has been made for the following resources:

**IOWA****Black Hawk County**

Fields Barn, SW of Cedar Falls, Cedar Falls, 77000495.

**Clarke County**

Brady-Bolibaugh House, 217 W. Washington, Osceola, 85000003.

**Des Moines County**

Union Hotel, 301-311 S. Main St., Burlington, 93000328.

**Scott County**

Gilruth District No. 4 Schoolhouse, 53rd and Marquette Sts., Davenport, 77000555.

**WISCONSIN****Ashland County**

Ashland Middle School, 1000 Ellis Ave., Ashland, 80000101.

**Rock County**

Dow, J.B., House and Carpenter Douglas Barn, 910 Board St., Beloit, 83003415.

**Waukesha County**

Mukwonago High School, 308 Washington Ave., Mukwonago, 94001211.

[FR Doc. E9-8900 Filed 4-16-09; 8:45 am]

**BILLING CODE****DEPARTMENT OF THE INTERIOR****National Park Service****National Register of Historic Places; Weekly Listing of Historic Properties**

Pursuant to (36 CFR 60.13(b,c)) and (36 CFR 63.5), this notice, through publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from March 2, to March 6, 2009.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St. NW., Washington, DC 20240; in person (by appointment), 1201 Eye St. NW, 8th floor, Washington DC 20005; by fax, 202-371-2229; by phone, 202-354-2255; or by e-mail, [Edson\\_Beall@nps.gov](mailto:Edson_Beall@nps.gov).

Dated: April 13, 2009.

**J. Paul Loether,**

Chief, National Register of Historic Places/ National Historic Landmarks Program.

KEY: State, County, Property Name, Address/ Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name

**IOWA****Polk County**

Methodist Deaconess Institute—Esther Hall, 921 Pleasant St., Des Moines, 09000067, LISTED, 3/04/09

**NEBRASKA****Burt County**

Burt County State Bank, 246 S. 13th St., Tekamah, 09000068, LISTED, 3/04/09

**Douglas County**

Nicholas Street Historic District, Bounded by N. 11th St., Izard, N. 14th St. and a line parallel to and roughly 450' N. of Nicholas St., Omaha, 09000070, LISTED, 3/02/09  
Parker, Frank, Archeological Site, Address Restricted, Fort Calhoun vicinity, 09000069 LISTED, 3/04/09

**Lincoln County**

North Platte US Post Office and Federal Building, 416 N. Jeffers St., North Platte, 09000071, LISTED, 3/04/09

**OKLAHOMA****Craig County**

Little Cabin Creek Bridge, US 60/69 over Little Cabin Creek, SE of jct with US 44, Vinita vicinity, 09000072, LISTED, 3/04/09 (Route 66 in Oklahoma MPS)

**Kay County**

Huston Elementary School, 304 Vinnedge, Blackwell, 09000073, LISTED, 3/04/09

Washington Elementary School, 723 W. College, Blackwell, 09000076, LISTED, 3/04/09

**Nowata County**

Opossum Creek Bridge, Co. Rd. NS-413 over Opossum Creek, South Coffeyville vicinity, 09000077, LISTED, 3/04/09

**TENNESSEE****Davidson County**

Dyer, Arthur J., Observatory, 1000 Oman Dr., Brentwood, 09000114, LISTED, 3/06/09

**Montgomery County**

RiverView Mounds Archeological Site (40MT44), Address Restricted, Clarksville vicinity, 09000116, LISTED, 3/04/09

**Shelby County**

Forrest Park Historic District, S. Manassas St. and Union Ave., Memphis, 09000118, LISTED, 3/04/09

**VIRGINIA****Wise County**

Flat Gap High School, Rt. 671, Pound vicinity, 09000123, LISTED, 3/06/09

## WISCONSIN

## Oneida County

West Side School, 718 W. Phillip St.,  
Rhineland, 09000124, LISTED, 3/05/09

[FR Doc. E9-8894 Filed 4-16-09; 8:45 am]

## BILLING CODE

## DEPARTMENT OF JUSTICE

## Notice of Settlement Agreement

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given of a proposed settlement agreement in *United States v. North Carolina DOT Ferry Division, et al.*, No. 5:08-CV-48-BO (E.D.N.C.), to obtain injunctive relief and impose civil penalties against defendants for alleged violations of Clean Water Act sections 301(a) and 404, 33 U.S.C. 1311, 1344, by discharging fill material without a permit into the Currituck Sound, along a traditional boating lane near Corolla, North Carolina.

The proposed Settlement Agreement resolves these allegations by requiring defendants North Carolina Department of Transportation, Jerry Gaskill and Billy R. Moore to pay civil penalties. In addition, the North Carolina Department of Transportation is required to provide periodic training regarding the Clean Water Act and related environmental requirements. The Department of Justice will accept written comments relating to this proposed Settlement Agreement for thirty (30) days from the date of publication of this Notice. Please address comments to Neal I. Fowler, Assistant United States Attorney, United States Attorney's Office, Civil Division, Terry Sanford Federal Building, 310 New Bern Avenue, Suite 800, Raleigh, North Carolina 27601-1461, and refer to *United States v. North Carolina DOT Ferry Division, et al.*, No. 5:08-CV-48-BO. The proposed Settlement may be viewed at [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html).

## Russell M. Young,

Assistant Chief, Environmental Defense  
Section, Environment & Natural Resources  
Division.

[FR Doc. E9-8767 Filed 4-16-09; 8:45 am]

## BILLING CODE

## DEPARTMENT OF LABOR

## Office of the Secretary

## Worker Rights Program

AGENCY: Bureau of International Labor  
Affairs, U.S. Department of Labor.

**ACTION:** Notice of intent to solicit cooperative agreement applications.

**SUMMARY:** The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB) Office of Trade and Labor Affairs (OTLA), Division of Trade Agreement Administration and Technical Cooperation (TAATC), intends to obligate approximately USD 3 million to support cooperative agreement awards to organizations to address workers rights issues internationally. ILAB intends to award, through a competitive and merit-based process, cooperative agreements to organizations to develop and implement projects to promote core labor standards by working at tripartite levels (governments, employers and labor) to improve labor law compliance in Pakistan and Kenya.

ILAB intends to fund projects that focus on strengthening compliance with international core labor standards, improving working conditions for workers, increasing knowledge among employers and workers of their rights and obligations, and to increase the capacity of ministries of labor to use the labor administration/inspection system more effectively. The projects should propose innovative and cost-effective interventions that will produce a demonstrable and sustainable impact to target beneficiaries at all levels within a tripartite system. ILAB intends to solicit cooperative agreement applications from qualified organizations (i.e., any commercial, international, educational, or non-profit organization, including any faith-based, community-based, or public international organizations(s), capable of successfully developing and implementing worker rights projects) to implement these projects. Please refer to <http://www.dol.gov/ilab/grants/main.htm> for examples of previous notices of availability of funds and solicitations for cooperative agreement applications (SGAs).

**Key Dates:** The forthcoming SGAs will be published on <http://www.grants.gov> and USDOL/ILAB's Web site. A brief synopsis of the SGAs and Web site links to the full-text SGAs will be published in the **Federal Register**. The SGAs will remain open for at least 60 days from the date of publication. All cooperative agreement awards will be made on or before September 30, 2009.

**Submission Information:** Applications in response to the forthcoming solicitation must be submitted electronically on <http://www.grants.gov> or submitted in hard copy to Lisa Harvey, Office of Procurement Services, Room S-4307, 200 Constitution Ave., NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa Harvey. E-mail address: [harvey.lisa@dol.gov](mailto:harvey.lisa@dol.gov). All inquiries should make reference to the USDOL ILAB Workers Rights—SGAs. Information on the specific sectors, geographical regions, and funding levels for the potential projects in the countries listed above will be addressed in the SGAs to be published on <http://www.grants.gov>. Potential applicants should not submit inquiries to USDOL for further information on these award opportunities until after USDOL's publication of the solicitations.

**Background Information:** TAATC works with other governments and international organizations to identify assistance that countries may require to improve the labor conditions of their citizens. Since 1995, TAATC has developed programs in more than seventy countries addressing a wide range of labor issues. In FY 2008, Congress provided \$5 million to implement model programs to assure adherence to international core labor standards in countries with which the United States provides trade preferences (in 2008, projects were launched in Afghanistan, Colombia, Haiti and Tanzania). To date, the U.S. Congress has appropriated \$11.5 million to USDOL to support these activities. For additional information on the program, see TAATC fact sheet at <http://www.dol.gov/ilab/media/factsheets/20080200TAATC.pdf>.

International projects funded by USDOL to promote worker rights seek to assure adherence to international core labor standards in countries with which the United States provides trade preference through the following activities:

1. Provide training for labor inspectors;
2. Provide knowledge, education, and awareness-raising for workers about their rights;
3. Provide education and awareness-raising for employers about their responsibilities and worker rights;
4. Enhance the capacity of Ministries of Labor to generate and maintain reliable labor market data;
5. Strengthen the capacity of worker and employer organizations to engage in social dialogue.

Signed at Washington, DC, this 13th day of April 2009.

Lisa Harvey,  
Grant Officer.

[FR Doc. E9-8814 Filed 4-16-09; 8:45 am]

## BILLING CODE 4510-29-P

## LIBRARY OF CONGRESS

## Copyright Office

**Notice of Inquiry and Request for Comments on the Topic of Facilitating Access to Copyrighted Works for the Blind or Other Persons With Disabilities; Notice of Public Meeting**

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice.

**SUMMARY:** The United States Copyright Office (Copyright Office) and the United States Patent and Trademark Office (USPTO) announce that interested parties may submit electronic comments and reply comments on facilitating access to copyrighted works for the blind or other persons with disabilities.

**DATES:** Initial comments are due by 5 p.m. on April 21, 2009. Reply comments are due by 5 p.m. on May 4, 2009.

**ADDRESSES:** Electronic submissions may be made through the Copyright Office Web site: <http://www.copyright.gov/docs/sccr/comments>. See the **SUPPLEMENTARY INFORMATION** section for acceptable electronic file formats and filing requirements. See Notice of Inquiry and Request for Comments; Notice of Public Meeting, 74 FR 13268 (March 26, 2009), for information on other methods of filing comments.

**FOR FURTHER INFORMATION CONTACT:** Paula Pinha, Attorney-Advisor, Office of Policy and International Affairs. Telephone: (202) 707-7845. E-mail: [ppin@loc.gov](mailto:ppin@loc.gov).

**SUPPLEMENTARY INFORMATION:** The Copyright Office and the USPTO are adding the option of submitting initial and reply comments electronically to the options for submitting comments that were specified in their previous Notice of March 26, 2009 (74 FR 13268).

A comment page will be posted on the Copyright Office Web site at <http://www.copyright.gov/docs/sccr/comments>. Approximately one week prior to each comment deadline the comment form will be activated, allowing information to be entered into the required fields and any additional non-required fields. All comments submitted electronically must be submitted as an attachment, and must be in a single file in either Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format. The maximum file size is 6 megabytes (MB). The attached comment must include the name of the commenter. There will be

a browse button on the form that will allow commenters to attach the comment file to the form and then to submit the completed form to the Copyright Office.

The Copyright Office and the USPTO intend to post all comments from this proceeding on the Copyright Office Web site. For comments submitted electronically, the name and organization of the commenter from the comment form will be posted together with the entire attached comment document. Other information from the comment form will not be posted, but note that if the same information is included in the attached document it will be available on the Copyright Office Web site as part of the attachment.

Dated: April 14, 2009.

Marybeth Peters,

Register of Copyrights,

[FR Doc. E9-8865 Filed 4-16-09; 8:45 am]

BILLING CODE 1410-30-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 Maryland by NSF Division of Materials Research (DMR) #1203.

**Dates & Times:** Monday, May 18, 2009; 7:45 a.m.–8:30 p.m., Tuesday, May 19, 2009; 8 a.m.–3:30 p.m.

**Place:** University of Maryland, College Park, MD.

**Type of Meeting:** Part-open.

**Contact Person:** Dr. Charles Ying, 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) 292-8428.

**Purpose of Meeting:** To provide advice and recommendations concerning further support of the MRSEC at the University of Maryland.

**Agenda**

**Monday, May 18, 2009**

7:45 a.m.–9 a.m. Closed—Executive Session  
9 a.m.–4:30 p.m. Open—Review of the Maryland MRSEC  
4:30 p.m.–6 p.m. Closed—Executive Session  
6 p.m.–8:30 p.m. Open—Poster Session and Dinner

**Tuesday, May 19, 2009**

8 a.m.–9 a.m. Closed—Executive session  
9 a.m.–10:30 a.m. Open—Review of the Maryland MRSEC

10:30 a.m.–3:30 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. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9-8812 Filed 4-16-09; 8:45 am]

BILLING CODE 7555-01-P

## NATIONAL SCIENCE FOUNDATION

**Proposal Review Panel for Human Development; 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:** Louis Stokes Alliances for Minority Participation Program, Proposal Review Panel for Human Development (1199).

**Date/Time:** April 22, 2009; 8 a.m.–6:15 p.m., April 23, 2009; 8 a.m.–4 p.m.

**Place:** Howard University, 2400 Sixth Street, NW., WDC 20059.

**Type of Meeting:** Partially Closed.

**Contact Persons:** A. James Hicks, Senior Program Director, Harry Bass, Program Director or Martha James, Assistant Program Director, Louis Stokes Alliances for Minority Participation Program, National Science Foundation, Arlington, Virginia, 703-292-8640.

**Purpose of Meeting:** NSF pre-award site visit to conduct an in-depth evaluation of past performance and to evaluate proposed plans to support continued funding.

**Agenda**

**Wednesday, April 22, 2009**

8 a.m.–12 Introductions & Overview, Vision, Strategy & Alliance Program Overview (Open)  
12:15 p.m.–1:15 p.m. Lunch  
1:15 p.m.–6:15 p.m. Strengths, Weaknesses, Opportunities, Threats (SWOT) Evaluation and Assessment, Issue Generation Executive Session, Report Preparation (Closed)

**Thursday, April 23, 2009**

8 a.m.–12 Visit to Selected Partner Institution(s) or Meetings with faculty, students, advisory/governing board (Open)  
12–1 p.m. Lunch  
1:15 p.m.–3 p.m. Discussions with Alliance Leadership/Management Team (Closed)  
3:15–4 Debriefing, Wrap-Up and Departure (Closed)

**Reason for Late Notice:** Due to scheduling complications and the necessity to proceed with the site visit.

**Reason for Closing:** Topics to be discussed and evaluated during the site review will

include information of a proprietary or confidential nature, including technical information; and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9-8813 Filed 4-16-09; 8:45 am]

BILLING CODE 7555-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2008-0516]

### Notice of Issuance of Regulatory Guide

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance and Availability of Regulatory Guide (RG) 3.16, Revision 1.

#### FOR FURTHER INFORMATION CONTACT:

Mark Orr, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 251-7495 or e-mail to [Mark.Orr@nrc.gov](mailto:Mark.Orr@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

RG 3.16, "General Fire Protection Guide for Plutonium Processing and Fuel Fabrication Plants," was issued with a temporary identification as Draft Regulatory Guide, DG-3035. RG 3.16 provides the reader the type of information the NRC staff will use to evaluate the fire protection program proposed by an applicant as part of an application to construct and operate a plutonium processing and mixed oxide (MOX) fuel fabrication facility.

The NRC considers a MOX fuel fabrication facility to be a plutonium processing and fuel fabrication plant as defined in Title 10, part 70, "Domestic Licensing of Special Nuclear Material," of the *Code of Federal Regulations* (10

CFR part 70). Thus, applications for licensing of plutonium processing or fuel fabrication facilities must satisfy the requirements of 10 CFR 70.23, "Requirements for the Approval of Applications;" 10 CFR 70.61, "Performance Requirements;" and 10 CFR 70.64, "Requirements for New Facilities or New Processes at Existing Facilities."

RG 3.16 endorses the methods and procedures contained in the current revision of NUREG-1718, "Standard Review Plan for the Review of an Application for a Mixed Oxide (MOX) Fuel Fabrication Facility," Chapter 7, "Fire Protection," for reviewing the fire protection portion of the licensing application as acceptable for meeting the regulatory requirements as they relate to fire protection and the radiological consequences from fires.

##### II. Further Information

In September 2008, DG-3035 was published with a public comment period of 60 days from the issuance of the guide. The public comment period closed on November 13, 2008. No comments were received. Electronic copies of RG 3.16, Revision 1 are available through the NRC's public Web site under "Regulatory Guides" at <http://www.nrc.gov/reading-rm/doc-collections/>.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4209, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 27th day of January, 2009.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9-8828 Filed 4-16-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-69; EA-09-073; NRC-2009-0168]

### In the Matter of FirstEnergy Operating Company; Perry Nuclear Power Plant Independent Spent Fuel Installation Order Modifying License (Effective Immediately)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of order for implementation of additional security measures and fingerprinting for unescorted access to FirstEnergy Operating Company.

**FOR FURTHER INFORMATION CONTACT:** L. Raynard Wharton, Senior Project Manager, Licensing and Inspection Directorate, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. Telephone: (301) 492-3316; fax number: (301) 492-3348; e-mail: [LRaynard.Wharton@nrc.gov](mailto:LRaynard.Wharton@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Pursuant to 10 CFR 2.106, NRC (or the Commission) is providing notice, in the matter of Perry Nuclear Power Plant Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

##### II. Further Information

###### I

NRC has issued a general license to FirstEnergy Nuclear Operating Company (FENOC), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72. This Order is being issued to FENOC, which has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR Part 72. The Commission's regulations at 10 CFR 72.212(b)(5), 10 CFR 50.54(p)(1), and 10 CFR 73.55(c)(5) require FENOC to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR Part 73, Appendix C. Specific physical security requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological

sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

## II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, the environment, and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued advisories, or on their own. It also

recognizes that some measures may not be possible nor necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at FENOC's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these actions must be embodied in a legally binding order because the current threat environment continues to persist. Therefore, it is appropriate to require through this Order, certain ASMs, consistent with the established regulatory framework.

To provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, licenses issued pursuant to 10 CFR 72.210 shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that, in light of the common defense and security circumstances described above, the public health, safety, and interest require that this Order be effective immediately.

## III

Accordingly, pursuant to Sections 53, 103, 104, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, *it is hereby ordered*, effective immediately, that your general license is modified as follows:

A. FENOC shall comply with the requirements described in Attachments 1 and 2 to this Order, except to the extent that a more stringent requirement is set forth in the Perry Nuclear Power Plant's reactor physical security plan. FENOC shall immediately start implementation of the requirements in Attachments 1 and 2 to the Order and shall complete implementation no later than 180 days from the date of this Order, with the exception of the ASM B.4 of Attachment 1 ["Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs)"], which shall be implemented no later than 365 days from the date of this Order. In any event, FENOC shall complete implementation of all ASMs before the first day that spent fuel is initially placed in the ISFSI.

B. 1. FENOC shall, within twenty (20) days of the date of this Order, notify the Commission: (1) if it is unable to comply with any of the requirements, described in Attachments 1 and 2; (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause FENOC to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide FENOC's justification for seeking relief from, or variation of, any specific requirement.

2. If FENOC considers that implementation of any of the requirements described in Attachments 1 and 2 to this Order would adversely impact the safe storage of spent fuel, FENOC must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 requirements in question, or a schedule for modifying the facility, to address the adverse safety condition. If neither approach is appropriate, FENOC must supplement its response, to Condition B.1 of this Order, to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required under Condition B.1.

C. 1. FENOC shall, within twenty (20) days of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachments 1 and 2.

2. FENOC shall report to the Commission when it has achieved full compliance with the requirements described in Attachments 1 and 2.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

FENOC's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals and documents produced by FENOC as a result of this order, that contain Safeguards Information as defined by 10 CFR 73.22, shall be properly marked and handled, in accordance with 10 CFR 73.21 and 73.22.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

## IV

In accordance with 10 CFR 2.202, FENOC must, and any other person



adversely affected by this Order may, submit an answer to this Order within 20 days of the date of the Order. In addition, FENOC and any other person adversely affected by this Order, may request a hearing on this Order within 20 days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which FENOC relies and the reasons as to why the Order should not have been issued. If a person other than FENOC requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding before the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which NRC promulgated in August 28, 2007 (72 FR 49139), and codified in pertinent part at 10 CFR Part 2, Subpart B. The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases, to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), or by calling (301) 415-1677, to request: (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID

certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, he/she can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m., Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for, and receive digital ID certificates before hearing requests are filed so that they may obtain access to the documents via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov).

Participants who believe that they have good cause for not submitting documents electronically must file motions, in accordance with 10 CFR 2.302(g), with their initial paper filings requesting authorization to continue to submit documents in paper format.

Such filings must be submitted by: (1) First-class mail, addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete, by first-class mail, as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers, in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair-Use application, Participants are requested not to include copyrighted materials in their works.

If a hearing is requested by FENOC or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), FENOC may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified in Section III shall be final twenty (20) days from the date of this Order, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions, as specified in Section III, shall be final when the extension

expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 7th day of April 2009.

For the Nuclear Regulatory Commission.  
**Michael F. Weber,**  
*Director, Office of Nuclear Material Safety and Safeguards.*

**Attachment 1—Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs) Contains Safeguards Information and Is Not Included in the Federal Register Notice**

**Attachment 2—Additional Security Measures for Access Authorization and Fingerprinting at Independent Spent Fuel Storage Installations, Dated December 19, 2007**

*A. General Basis Criteria*

1. These additional security measures (ASMs) are established to delineate an independent spent fuel storage installation (ISFSI) licensee's responsibility to enhance security measures related to authorization for unescorted access to the protected area of an ISFSI in response to the current threat environment.

2. Licensees whose ISFSI is collocated with a power reactor may choose to comply with the NRC-approved reactor access authorization program for the associated reactor as an alternative means to satisfy the provisions of sections B through G below. Otherwise, licensees shall comply with the access authorization and fingerprinting requirements of section B through G of these ASMs.

3. Licensees shall clearly distinguish in their 20-day response which method they intend to use in order to comply with these ASMs.

*B. Additional Security Measures for Access Authorization Program*

1. The licensee shall develop, implement and maintain a program, or enhance their existing program, designed to ensure that persons granted unescorted access to the protected area of an ISFSI are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety or the common defense and security, including a potential to commit radiological sabotage.

a. To establish trustworthiness and reliability, the licensee shall develop, implement, and maintain procedures for conducting and completing background investigations, prior to granting access. The scope of background investigations

must address at least the past three years and, as a minimum, must include:

i. Fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check (CHRC). Where an applicant for unescorted access has been previously fingerprinted with a favorably completed CHRC, (such as a CHRC pursuant to compliance with orders for access to safeguards information) the licensee may accept the results of that CHRC, and need not submit another set of fingerprints, provided the CHRC was completed not more than three years from the date of the application for unescorted access.

ii. Verification of employment with each previous employer for the most recent year from the date of application.

iii. Verification of employment with an employer of the longest duration during any calendar month for the remaining next most recent two years.

iv. A full credit history review.

v. An interview with not less than two character references, developed by the investigator.

vi. A review of official identification (e.g., driver's license, passport, government identification, State, Province or Country of birth issued certificate of birth) to allow comparison of personal information data provided by the applicant. The licensee shall maintain a photocopy of the identifying document(s) on file, in accordance with "Protection of Information," Section G of these ASMs.

vii. Licensees shall confirm eligibility for employment through the regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), and shall verify and ensure, to the extent possible, the accuracy of the provided social security number and alien registration number as applicable.

b. The procedures developed or enhanced shall include measures for confirming the term, duration, and character of military service, and academic enrollment and attendance in lieu of employment, for the past five years.

c. Licensees need not conduct an independent investigation for individuals employed at a facility who possess active "Q" or "L" clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

d. A review of the applicant's criminal history, obtained from local criminal justice resources, may be included in addition to the FBI CHRC, and is encouraged if the results of the FBI CHRC, employment check, or credit check disclose derogatory information. The scope of the applicant's local

criminal history check shall cover all residences of record for the past three years from the date of the application for unescorted access.

2. The licensee shall use any information obtained as part of a CHRC solely for the purpose of determining an individual's suitability for unescorted access to the protected area of an ISFSI.

3. The licensee shall document the basis for its determination for granting or denying access to the protected area of an ISFSI.

4. The licensee shall develop, implement, and maintain procedures for updating background investigations for persons who are applying for reinstatement of unescorted access. Licensees need not conduct an independent reinvestigation for individuals who possess active "Q" or "L" clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

5. The licensee shall develop, implement, and maintain procedures for reinvestigations of persons granted unescorted access, at intervals not to exceed five years. Licensees need not conduct an independent reinvestigation for individuals employed at a facility who possess active "Q" or "L" clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

6. The licensee shall develop, implement, and maintain procedures designed to ensure that persons who have been denied unescorted access authorization to the facility are not allowed access to the facility, even under escort.

7. The licensee shall develop, implement, and maintain an audit program for licensee and contractor/vendor access authorization programs that evaluate all program elements and include a person knowledgeable and practiced in access authorization program performance objectives to assist in the overall assessment of the site's program effectiveness.

*C. Fingerprinting Program Requirements*

1. In a letter to the NRC, the licensee must nominate an individual who will review the results of the FBI CHRCs to make trustworthiness and reliability determinations for unescorted access to an ISFSI. This individual, referred to as the "reviewing official," must be someone who requires unescorted access to the ISFSI. The NRC will review the CHRC of any individual nominated to perform the reviewing official function. Based on the results of the CHRC, the NRC staff will determine

whether this individual may have access. If the NRC determines that the nominee may not be granted such access, that individual will be prohibited from obtaining access.<sup>1</sup> Once the NRC approves a reviewing official, the reviewing official is the only individual permitted to make access determinations for other individuals who have been identified by the licensee as having the need for unescorted access to the ISFSI, and have been fingerprinted and have had a CHRC in accordance with these ASMs. The reviewing official can only make access determinations for other individuals, and therefore cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if the licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he or she can act in the capacity of a reviewing official.

2. No person may have access to SGI or unescorted access to any facility subject to NRC regulation if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and CHRC, that the person may not have access to SGI or unescorted access to any facility subject to NRC regulation.

3. All fingerprints obtained by the licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

4. The licensee shall notify each affected individual that the fingerprints will be used to conduct a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the "Right to Correct and Complete Information" in section F of these ASMs.

5. Fingerprints need not be taken if the employed individual (e.g., a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, has a favorably adjudicated U.S. Government CHRC within the last five (5) years, or has an active Federal security clearance. Written confirmation from the Agency/employer who granted the Federal security clearance or reviewed the CHRC must be provided to the licensee. The licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to the facility.

<sup>1</sup> The NRC's determination of this individual's unescorted access to the ISFSI, in accordance with the process, is an administrative determination that is outside the scope of the Order.

#### D. Prohibitions

1. A licensee shall not base a final determination to deny an individual unescorted access to the protected area of an ISFSI solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

2. A licensee shall not use information received from a CHRC obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

#### E. Procedures for Processing Fingerprint Checks

1. For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop TWB-05-B32M, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to an ISFSI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 492-3524, or by e-mail to [forms@nrc.gov](mailto:forms@nrc.gov). Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals

and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. In order to be able to submit secure electronic payments, licensees will need to establish an account with Pay.Gov (<https://www.pay.gov>). To request an account, the licensee shall send an e-mail to [det@nrc.gov](mailto:det@nrc.gov). The e-mail must include the licensee's company name, address, point of contact (POC), POC e-mail address, and phone number. The NRC will forward the request to Pay.Gov; who will contact the licensee with a password and user ID. Once licensees have established an account and submitted payment to Pay.Gov, they shall obtain a receipt. The licensee shall submit the receipt from Pay.Gov to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7739. Combined payment for multiple applications is acceptable. The application fee (currently \$36) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

#### F. Right To Correct and Complete Information

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of one (1) year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the

agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

#### G. Protection of Information

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need-to-know.

4. The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

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BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-7; EA-09-072; NRC-2009-0169]

### In the Matter of Detroit Edison Company; Fermi Power Plant; Independent Spent Fuel Installation; Order Modifying License (Effective Immediately)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Order for Implementation of Additional Security Measures and Fingerprinting for Unescorted Access to Detroit Edison Company.

**FOR FURTHER INFORMATION CONTACT:** L. Raynard Wharton, Senior Project Manager, Licensing and Inspection Directorate, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. Telephone: (301) 492-3316; fax number: (301) 492-3348; e-mail: [LRaynard.Warton@nrc.gov](mailto:LRaynard.Warton@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Pursuant to 10 CFR 2.106, NRC (or the Commission) is providing notice, in the matter of Fermi Power Plant Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

##### II. Further Information

###### I

NRC has issued a general license to Detroit Edison Company (DTE), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act

of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72. This Order is being issued to DTE, which has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR Part 72. The Commission's regulations at 10 CFR 72.212(b)(5), 10 CFR 50.54(p)(1), and 10 CFR 73.55(c)(5) require DTE to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR Part 73, Appendix C. Specific physical security requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

###### II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner



throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, the environment, and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued advisories, or on their own. It also recognizes that some measures may not be possible nor necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at DTE's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these actions must be embodied in a legally binding order because the current threat environment continues to persist. Therefore, it is appropriate to require through this Order, certain ASMs, consistent with the established regulatory framework.

To provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, licenses issued pursuant to 10 CFR 72.210 shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that, in light of the common defense and security circumstances described above, the public health, safety, and interest require that this Order be effective immediately.

### III

Accordingly, pursuant to Sections 53, 103, 104, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, *it is hereby ordered, effective immediately, that your general license is modified as follows:*

A. DTE shall comply with the requirements described in Attachments 1 and 2 to this Order, except to the extent that a more stringent requirement is set forth in the Fermi Power Plant's reactor physical security plan. DTE shall immediately start implementation of the requirements in Attachments 1 and 2 to the Order and shall complete implementation no later than 180 days from the date of this Order, with the exception of the ASM B.4 of Attachment 1 ["Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs)"], which shall be implemented no later than 365 days from the date of this Order. In any event, DTE shall complete implementation of all ASMs before the first day that spent fuel is initially placed in the ISFSI.

B. 1. DTE shall, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in Attachments 1 and 2; (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause DTE to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide DTE's justification for seeking relief from, or variation of, any specific requirement.

2. If DTE considers that implementation of any of the requirements described in Attachments 1 and 2 to this Order would adversely impact the safe storage of spent fuel, DTE must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 requirements in question, or a schedule for modifying the facility, to address the adverse safety condition. If neither approach is appropriate, DTE must supplement its response, to Condition B.1 of this Order, to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required under Condition B.1.

C. 1. DTE shall, within twenty (20) days of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachments 1 and 2.

2. DTE shall report to the Commission when it has achieved full compliance with the requirements described in Attachments 1 and 2.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

DTE's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals and documents produced by DTE as a result of this Order, that contain Safeguards Information as defined by 10 CFR 73.22, shall be properly marked and handled, in accordance with 10 CFR 73.21 and 73.22.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

### IV

In accordance with 10 CFR 2.202, DTE must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of the date of the Order. In addition, DTE and any other person adversely affected by this Order, may request a hearing on this Order within 20 days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which DTE relies and the reasons as to why the Order should not have been issued. If a person other than DTE requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding before the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which NRC promulgated in August 2007, 72 Fed. Reg. 49139 (August 28, 2007) and codified in pertinent part at 10 CFR Part 2, Subpart B. The E-Filing process requires participants to submit and serve all adjudicatory documents over



the internet, or in some cases, to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), or by calling (301) 415-1677, to request: (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding [even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate]. Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, he/she can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m., Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for, and receive digital ID certificates before a

hearing requests are filed so that they may obtain access to the documents via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov).

Participants who believe that they have good cause for not submitting documents electronically must file motions, in accordance with 10 CFR 2.302(g), with their initial paper filings requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first-class mail, addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete, by first-class mail, as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers, in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair-Use application. Participants are requested not to include copyrighted materials in their works.

If a hearing is requested by DTE or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing

shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), DTE may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified in Section III shall be final twenty (20) days from the date of this Order, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions, as specified in Section III, shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 7th day of April 2009.

For the Nuclear Regulatory Commission,  
Michael F. Weber,  
Director, Office of Nuclear Material Safety and Safeguards.

**Attachment 1—Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs) Contains Safeguards Information and Is Not Included in the Federal Register Notice**

**Attachment 2—Additional Security Measures for Access Authorization and Fingerprinting at Independent Spent Fuel Storage Installations, Dated December 19, 2007**

*A. General Basis Criteria*

1. These additional security measures (ASMs) are established to delineate an independent spent fuel storage installation (ISFSI) licensee's responsibility to enhance security measures related to authorization for unescorted access to the protected area of an ISFSI in response to the current threat environment.

2. Licensees whose ISFSI is collocated with a power reactor may choose to comply with the NRC-approved reactor access authorization program for the associated reactor as an alternative means to satisfy the provisions of sections B through G below. Otherwise, licensees shall comply with the access authorization and fingerprinting requirements of sections B through G of these ASMs.

3. Licensees shall clearly distinguish in their 20-day response which method they intend to use in order to comply with these ASMs.

*B. Additional Security Measures for Access Authorization Program*

1. The licensee shall develop, implement and maintain a program, or enhance their existing program, designed to ensure that persons granted unescorted access to the protected area of an ISFSI are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety or the common defense and security, including a potential to commit radiological sabotage.

a. To establish trustworthiness and reliability, the licensee shall develop, implement, and maintain procedures for conducting and completing background investigations, prior to granting access. The scope of background investigations must address at least the past three years and, as a minimum, must include:

i. Fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check (CHRC). Where an applicant for unescorted access has been previously fingerprinted with a favorably completed CHRC (such as a CHRC pursuant to compliance with orders for access to safeguards information), the licensee may accept the results of that CHRC, and need not submit another set of fingerprints, provided the CHRC was completed not more than three years from the date of the application for unescorted access.

ii. Verification of employment with each previous employer for the most recent year from the date of application.

iii. Verification of employment with an employer of the longest duration during any calendar month for the remaining next most recent two years.

iv. A full credit history review.

v. An interview with not less than two character references, developed by the investigator.

vi. A review of official identification (e.g., driver's license, passport, government identification, state, province, or country of birth-issued certificate of birth) to allow comparison of personal information data provided by the applicant. The licensee shall maintain a photocopy of the identifying document(s) on file, in accordance with "Protection of Information," Section G of these ASMs.

vii. Licensees shall confirm eligibility for employment through the regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), and shall verify and ensure to the extent possible the accuracy of the provided social

security number and alien registration number as applicable.

b. The procedures developed or enhanced shall include measures for confirming the term, duration, and character of military service, and academic enrollment and attendance in lieu of employment, for the past five years.

c. Licensees need not conduct an independent investigation for individuals employed at a facility who possess active "Q" or "L" clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

d. A review of the applicant's criminal history, obtained from local criminal justice resources, may be included in addition to the FBI CHRC, and is encouraged if the results of the FBI CHRC, employment check, or credit check disclose derogatory information. The scope of the applicant's local criminal history check shall cover all residences of record for the past three years from the date of the application for unescorted access.

2. The licensee shall use any information obtained as part of a CHRC solely for the purpose of determining an individual's suitability for unescorted access to the protected area of an ISFSI.

3. The licensee shall document the basis for its determination for granting or denying access to the protected area of an ISFSI.

4. The licensee shall develop, implement, and maintain procedures for updating background investigations for persons who are applying for reinstatement of unescorted access. Licensees need not conduct an independent reinvestigation for individuals who possess active "Q" or "L" clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential:

5. The licensee shall develop, implement, and maintain procedures for reinvestigations of persons granted unescorted access, at intervals not to exceed five years. Licensees need not conduct an independent reinvestigation for individuals employed at a facility who possess active "Q" or "L" clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

6. The licensee shall develop, implement, and maintain procedures designed to ensure that persons who have been denied unescorted access authorization to the facility are not allowed access to the facility, even under escort.

7. The licensee shall develop, implement, and maintain an audit program for licensee and contractor/vendor access authorization programs that evaluate all program elements and include a person knowledgeable and practiced in access authorization program performance objectives to assist in the overall assessment of the site's program effectiveness.

*C. Fingerprinting Program Requirements*

1. In a letter to the NRC, the licensee must nominate an individual who will review the results of the FBI CHRCs to make trustworthiness and reliability determinations for unescorted access to an ISFSI. This individual, referred to as the "reviewing official," must be someone who requires unescorted access to the ISFSI. The NRC will review the CHRC of any individual nominated to perform the reviewing official function. Based on the results of the CHRC, the NRC staff will determine whether this individual may have access. If the NRC determines that the nominee may not be granted such access, that individual will be prohibited from obtaining access.<sup>1</sup> Once the NRC approves a reviewing official, the reviewing official is the only individual permitted to make access determinations for other individuals who have been identified by the licensee as having the need for unescorted access to the ISFSI, and have been fingerprinted and have had a CHRC in accordance with these ASMs. The reviewing official can only make access determinations for other individuals, and therefore cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if the licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he or she can act in the capacity of a reviewing official.

2. No person may have access to SGI or unescorted access to any facility subject to NRC regulation if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and CHRC, that the person may not have access to SGI or unescorted access to any facility subject to NRC regulation.

3. All fingerprints obtained by the licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

4. The licensee shall notify each affected individual that the fingerprints

<sup>1</sup>The NRC's determination of this individual's unescorted access to the ISFSI, in accordance with the process is an administrative determination that is outside the scope of the Order.

will be used to conduct a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the "Right to Correct and Complete Information" in section F of these ASMs.

5. Fingerprints need not be taken if the employed individual (e.g., a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, has a favorably adjudicated U.S. Government CHRC within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/employer who granted the federal security clearance or reviewed the CHRC must be provided to the licensee. The licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to the facility.

#### D. Prohibitions

1. A licensee shall not base a final determination to deny an individual unescorted access to the protected area of an ISFSI solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

2. A licensee shall not use information received from a CHRC obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

#### E. Procedures for Processing Fingerprint Checks

1. For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop TWB-05-B32M, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to an ISFSI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 492-

3524, or by e-mail to [forms@nrc.gov](mailto:forms@nrc.gov). Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submissions and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. In order to be able to submit secure electronic payments, licensees will need to establish an account with Pay.Gov (<https://www.pay.gov>). To request an account, the licensee shall send an e-mail to [det@nrc.gov](mailto:det@nrc.gov). The e-mail must include the licensee's company name, address, point of contact (POC), POC e-mail address, and phone number. The NRC will forward the request to Pay.Gov; who will contact the licensee with a password and user ID. Once licensees have established an account and submitted payment to Pay.Gov, they shall obtain a receipt. The licensee shall submit the receipt from Pay.Gov to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7739. Combined payment for multiple applications is acceptable. The application fee (currently \$36) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

#### F. Right to Correct and Complete Information

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of one (1) year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of a FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

#### G. Protection of Information

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to

prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need-to-know.

4. The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

[FR Doc. E9-8827 Filed 4-16-09; 8:45 am]

BILLING CODE 7590-01-P

## RAILROAD RETIREMENT BOARD

### Proposed Collection; Comment Request

**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 collection is 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 of 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:* Employee Representative's Status and Compensation Reports; OMB 3220-0014.

Under Section 1(b)(1) of the Railroad Retirement Act (RRA), the term "employee" includes an individual who is an employee representative. As defined in Section 1(c) of the RRA, an employee representative is an officer or official representative of a railway labor organization other than a labor organization included in the term "employer," as defined in the RRA, who before or after August 29, 1935, was in the service of an employer under the RRA and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, or, any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his or her office. The requirements relating to the application for employee representative status and the periodic reporting of the compensation resulting from such status is contained in 20 CFR 209.10.

The RRB utilizes Forms DC-2a, Employee Representative's Status Report, and DC-2, Employee Representative's Report of Compensation, to obtain the information needed to determine employee representative status and to maintain a record of creditable service and compensation resulting from such status. Completion is required to obtain or retain a benefit. One response is requested of each respondent.

No changes are proposed to Form DC-2a and Form DC-2. The completion time for Form DC-2 is estimated at 30 minutes per response. The RRB estimates that approximately 65 Form DC-2's are completed annually. The RRB estimates that less than 10 Form DC-2a's are completed annually.

2. *Title and purpose of information collection:* Nonresident Questionnaire; OMB 3220-0145.

Under Public Laws 98-21 and 98-76, benefits under the Railroad Retirement Act payable to annuitants living outside the United States may be subject to taxation under United States income tax laws. Whether the social security equivalent and non-social security equivalent portions of Tier I, Tier II, vested dual benefit, or supplemental annuity payments are subject to tax withholding, and whether the same or different rates are applied to each payment, depends on a beneficiary's citizenship and legal residence status,

and whether exemption under a tax treaty between the United States and the country in which the beneficiary is a legal resident has been claimed. To effect the tax withholding, the Railroad Retirement Board (RRB) needs to know a nonresident's citizenship and legal residence status.

To secure the required information, the RRB utilizes Form RRB-1001, Nonresident Questionnaire, as a supplement to an application as part of the initial application process, and as an independent vehicle for obtaining the needed information when an annuitant's residence or tax treaty status changes. Completion is voluntary. One response is requested of each respondent.

The RRB estimates that 1,300 Form RRB-1001's are completed annually. The completion time for Form RRB-1001 is estimated at 30 minutes. No changes are proposed to Form RRB-1001.

**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. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

Charles Mierzwa,  
Clearance Officer.

[FR Doc. E9-8817 Filed 4-16-09; 8:45 am]

BILLING CODE 7905-01-P

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.  
**ACTION:** Notice of reporting requirements submitted for OMB Review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before May 18, 2009. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.



*Copies:* Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: *Agency Clearance Officer*, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline White, Agency Clearance Officer, (202) 205-7044.

**SUPPLEMENTARY INFORMATION:**

*Title:* HUBZone Program Electronic Application, Recertification and Program Examination.

*SBA Form Number:* 2103.

*Frequency:* On occasion.

*Description of Respondents:* Small Businesses Seeking Certification.

*Responses:* 6,375.

*Annual Burden:* 10,725.

*Title:* Transaction report on Loans Serviced by Lenders.

*SBA Form Number:* 172.

*Frequency:* On Occasion.

*Description of Respondents:* Small Businesses Administration Participating Lenders.

*Responses:* 11,134.

*Annual Burden:* 3,352.

*Title:* Notice of Award and Grant Cooperative Agreement Sharing Proposal.

*SBA Form Number's:* 1222 and 1224.

*Frequency:* On occasion.

*Description of Respondents:* Participating Colleges and Grants Management Offices.

*Responses:* 2,592.

*Annual Burden:* 202,261.

*Title:* Small Business Administration (SBA) Surety Bond Guarantee Customer Survey.

*SBA Form Number:* 2309.

*Frequency:* On occasion.

*Description of Respondents:* Surety companies.

*Responses:* 382.

*Annual Burden:* 13.

**Jacqueline White,**  
Chief, Administrative Information Branch.  
[FR Doc. E9-8790 Filed 4-16-09; 8

BILLING CODE 8025-01-P

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #11705 and #11706]

**Minnesota Disaster #MN-00021**

**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 Minnesota (FEMA-1830-DR), dated 04/09/2009.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 03/16/2009 and continuing.

*Effective Date:* 04/09/2009.

*Physical Loan Application Deadline Date:* 06/08/2009.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/09/2010.

**ADDRESSES:** Submit completed loan applications to: Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:**

Alan 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 04/09/2009, 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:* Clay, Kittson, Marshall, Norman, Polk, Traverse, Wilkin.

*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 11705B and for economic injury is 11706B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**  
Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-8793 Filed 4-16-09; 8:45 am]

BILLING CODE 8025-01-P

**SMALL BUSINESS ADMINISTRATION**

[License No. 09/79-0453]

**Telegraph Hill Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest**

Notice is hereby given that Telegraph Hill Partners SBIC, L.P., 360 Post Street, Suite 601, San Francisco, CA 94108, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Telegraph Hill Partners SBIC, L.P. proposes to provide equity security financing to Althea Technologies, Inc., 11040 Roselle Street, San Diego, CA 92121. The financing is contemplated for working capital and general corporate purposes.

The financing is brought within the purview of section 107.730(a)(1) of the Regulations because Telegraph Hill Partners II, L.P., THP II Affiliates Fund, L.P., and THP Affiliates Fund, L.P., all Associates of Telegraph Hill Partners SBIC, L.P., own more than ten percent of Althea Technologies, Inc.

Therefore, this transaction is considered a financing of an Associate requiring an exemption. Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: February 19, 2009.

**Harry Haskins,**  
Acting Associate Administrator for Investment.

[FR Doc. E9-8794 Filed 4-16-09; 8:45 am]

BILLING CODE 8025-01-P

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Finance Docket No. 35110]

**Florida Department of Transportation—Acquisition Exemption—Certain Assets of CSX Transportation, Inc.**

Florida Department of Transportation (FDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR



1150.31 to acquire from CSXT Transportation, Inc. (CSXT) certain physical assets and associated right-of-way, including approximately 61.5 miles of rail line, the Orlando Line, extending between milepost A-749.7 in DeLand, and milepost A-814-1 in Poinciana, Volusia, Seminole, Orange, and Osceola Counties, FL.<sup>1</sup>

FDOT states that it will acquire neither the right nor ability to provide or control freight service on the Orlando Line but will develop and operate a commuter rail system on the Orlando Line.<sup>2</sup> CSXT, according to FDOT, will continue to provide all common carrier rail freight service over the Orlando Line, retaining an exclusive and perpetual freight operating easement.<sup>3</sup>

FDOT will also obtain an option to acquire from CSXT the physical assets and associated right-of-way of CSXT's Aloma Spur extending from a connection with the Orlando Line at milepost AU-766.0 in Sanford, to milepost AU-771.8, near Airport Boulevard and the Orlando/Sanford International Airport, a distance of approximately 5.8 miles, and CSXT's DeLand Spur extending from a connection with the Orlando Line at milepost ASE-750.3 (DeLand Junction) to milepost ASE-753.3, near downtown DeLand, a distance of approximately 3.0 miles. FDOT does not intend to acquire the Aloma Spur and DeLand Spur at this time, but they are included so that any jurisdictional determination made by the Board pursuant to FDOT's motion to dismiss will also cover those tracks.<sup>4</sup>

The transaction is scheduled to take place on June 30, 2009 (after the May 3, 2009 effective date of the exemption).

If the verified notice contains false or misleading information, the exemption

<sup>1</sup> FDOT indicates that, due to a relocation project in Sanford, FL, the distance between milepost A-768 and milepost A-771 is only 749 feet. Accordingly, the actual length of the line is 2.9 miles shorter than indicated by its milepost termini.

<sup>2</sup> Because FDOT asserts that it is not acquiring a common carrier obligation to provide freight service, FDOT has also included a motion to dismiss in this proceeding. The motion will be addressed in a subsequent Board decision.

<sup>3</sup> Florida Central Railroad Company, Inc., an existing tenant of CSXT, will continue to operate over a portion of the Orlando Line for purposes of interchanging traffic with CSXT, and the National Railroad Passenger Corporation, also an existing tenant of CSXT, will continue to operate four daily passenger trains over the length of the Orlando Line.

<sup>4</sup> FDOT does not include a time frame for any future transactions. FDOT is put on notice that a substantial lag time between the publication of this notice and any future transactions could put in doubt the validity of the notice requirements pertaining to any new transactions. Accordingly, the Board reserves the right to require any future transactions to be noticed in the **Federal Register** before the Board can entertain a motion to dismiss.

is void *ab initio*. Petitions to reopen the proceeding 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 transaction. Petitions for stay will be due no later than April 24, 2009 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings referring to STB Finance Docket No. 35110 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 William C. Sippel, Fletcher & Sippel, LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 10, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,  
Clearance Clerk.

[FR Doc. E9-8702 Filed 4-16-09; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-1027X]

#### Seaside Holdings, Inc.— Discontinuance of Service Exemption—in Harlan County, KY

Seaside Holdings, Inc. (Seaside) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 12.56-mile line of railroad extending from milepost OWH 258.5 to the end of the track at milepost OWH 271.06 in Harlan County, KY. The line traverses United States Postal Service Zip Codes 40828, 40843 and 40927.<sup>1</sup>

Seaside has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service

<sup>1</sup> Seaside initially filed this notice on March 12, 2009, but supplemented it on March 19, 2009 to comply fully with the requirement of 49 CFR 1152.50(d) that the railroad seeking the exemption notify certain governmental entities 10 days prior to filing the notice of exemption. Therefore, 10 days from the filing of the supplement (March 30, 2009) will be considered the official filing date of this notice of exemption.

over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.<sup>2</sup>

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 19, 2009, unless stayed pending reconsideration.<sup>3</sup> Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),<sup>4</sup> must be filed by April 27, 2009.<sup>5</sup> Petitions to reopen must be filed by May 7, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to Seaside's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1920 N Street, NW., 8th floor, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 3, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kulunie L. Cannon,  
Clearance Clerk.

[FR Doc. E9-8069 Filed 4-16-09; 8:45 am]

BILLING CODE 4915-01-P

<sup>2</sup> Because this is a discontinuance of service proceeding and not an abandonment, the proceeding is exempt from the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), and 49 CFR 1105.11 (transmittal letter).

<sup>3</sup> Applicant states that its anticipated consummation date is May 4, 2009. Because of the new file date, this transaction cannot be consummated before May 19, 2009.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

<sup>5</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

[STB Docket No. AB-397 (Sub-No. 6X)]

Tulare Valley Railroad Company—  
Discontinuance of Service  
Exemption—in Tulare County, CA

Tulare Valley Railroad Company (TVR), a Class III rail carrier, has filed a verified notice of exemption<sup>1</sup> under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 5.9-mile line of railroad between milepost 66.0 at or near Ultra and milepost 71+2969.2 at or near Ducor, in Tulare County, CA. The line traverses United States Postal Service Zip Codes 93270 and 93218.

TVR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user

<sup>1</sup> TVR originally filed its verified notice of exemption on March 12, 2009. However, TVR failed to comply fully with the notification requirement at 49 CFR 1152.50(d)(1) until March 19, 2009, when it states that it notified the U.S. Department of Agriculture of the proposed discontinuance of service exemption. Because the railroad must notify this agency at least 10 days prior to the filing of a notice of exemption, March 30, 2009, will be considered the official filing date.

of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 19, 2009, unless stayed pending reconsideration.<sup>2</sup> Petitions to stay that do not involve environmental issues

<sup>2</sup> Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. A Board staff member has informed TVR that, because the official filing date of the notice is now March 30, 2009, consummation may not take place prior to May 19, 2009.

and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),<sup>3</sup> must be filed by April 27, 2009.<sup>4</sup> Petitions to reopen must be filed by May 7, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to TVR's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1920 N Street, NW, (8th floor), Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 7, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Kulunie L. Cannon,**  
Clearance Clerk.

[FR Doc. E9-8270 Filed 4-16-09; 8:45 am]

BILLING CODE 4915-01-P

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

<sup>4</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

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Friday, April 17, 2009

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111th Congress

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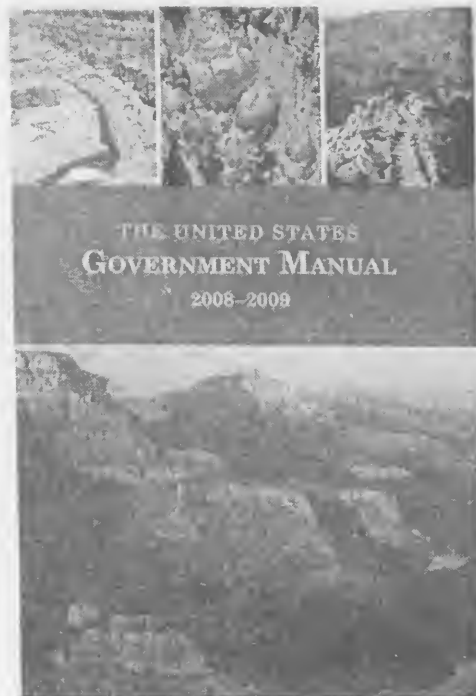
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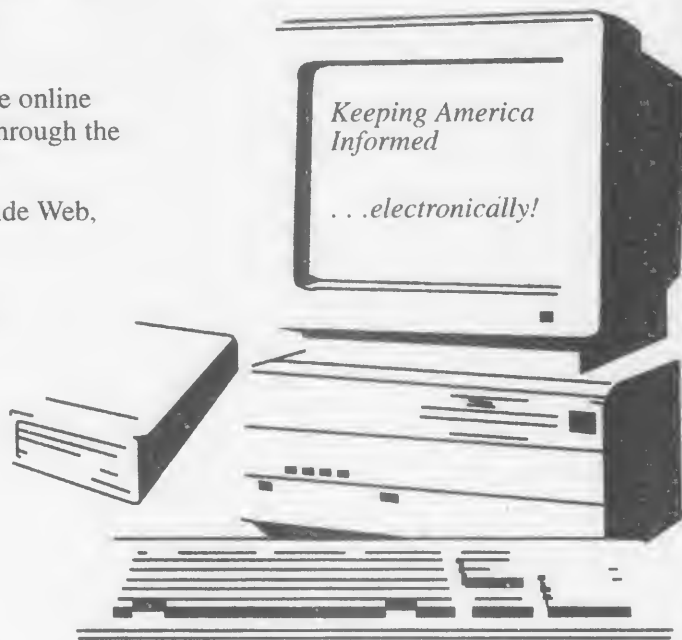
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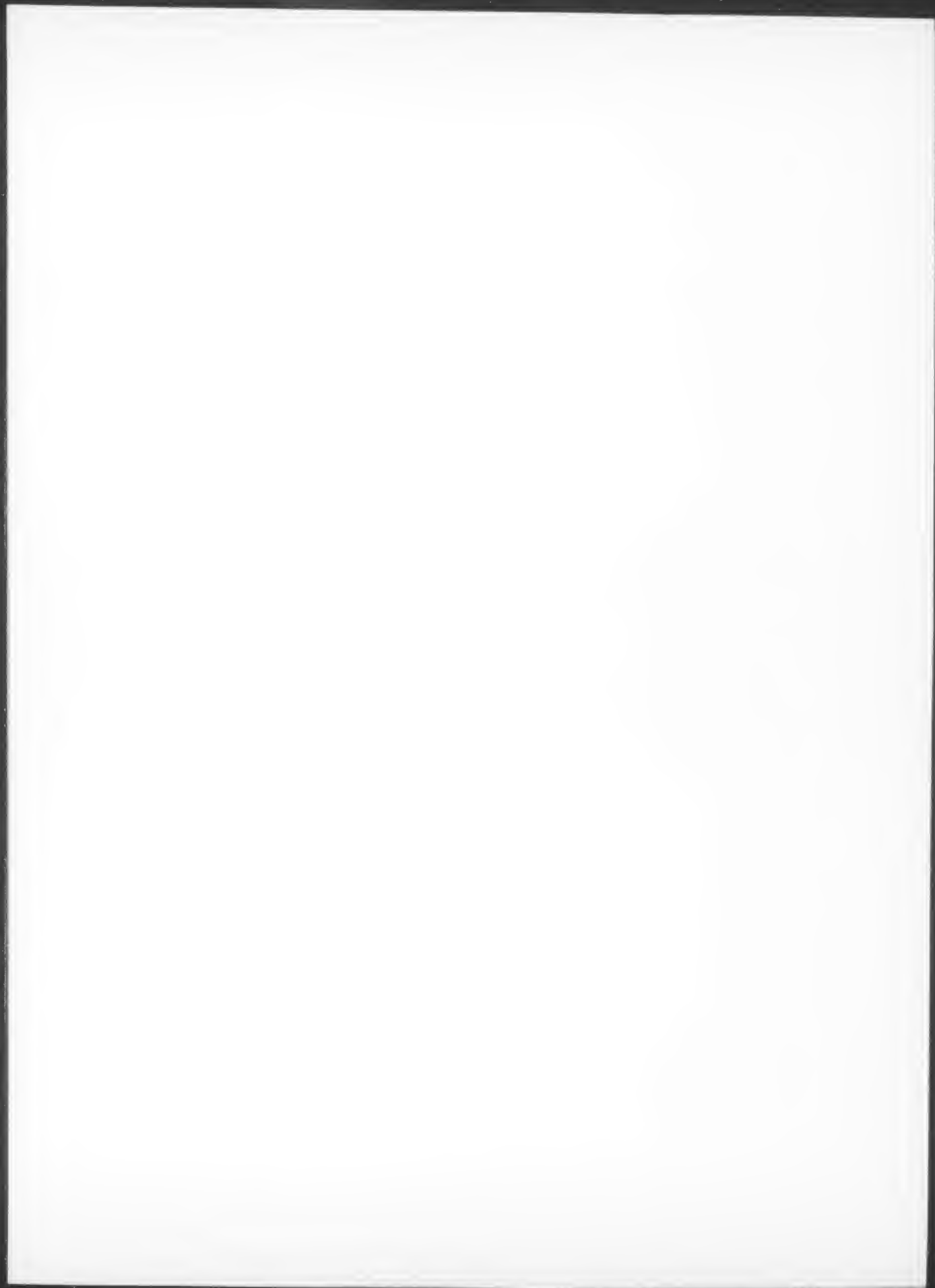


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